Research and Planning

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Mediation Services: An Evaluation

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Executive Summary

The effectiveness of the courts in dealing with conflicts arising from interpersonal disputes has often been criticized. Such short-comings were identified in a report by the Law Reform Commission of Canada in 1975 entitled "Studies on Diversion". The results of these studies carried out by the Commission indicated that adjudication is not always an appropriate means of dealing with disputes, and that the adversarial process by nature creates a "winner" and a "loser". As a result, the underlying problems of a dispute are not addressed, and the fact that most crimes against persons involve people who are known to each other is a factor that is often ignored.

In Canada during the mid-seventies the diversion movement gave impetus to the development of mediation programs. The diversion movement attempted to find alternatives to the court system and mediation was one approach spawned by this movement.

The concept of mediation has been slowly gaining credibility within the justice system, and mediation programs are steadily increasing in number throughout Canada and many other countries. In Manitoba the provincial government has demonstrated a commitment to mediation through The Justice For Victims of Crime Act (Jan, 1987) which states that where appropriate, the mediation of disputes should be encouraged.

Victim-offender mediation is offered in Winnipeg by Mediation Services, a program that is sponsored by the Mennonite Central Committee. Established in Winnipeg in 1979, Mediation Services handles three basic types of cases, Diversion, Community Disputes and Post Plea. In Diversion, the accused is charged with a Criminal Code offense and if the case meets the screening criteria and the accused and the complainant agree to participate in mediation, the court proceedings are delayed. If an agreement is reached and complied with, and the Crown Attorney's Office agree, a stay of proceedings is entered. Community Disputes do not involve criminal charges, but rather a disagreement or dispute between two or more

individuals. In Post-Plea cases, a guilty plea is entered and the case is remanded to give the complainant and respondent the opportunity to participate in mediation. The final agreement that results from the mediation process forms part of the sentencing package.

Mediation Services screens all referrals to ensure that they meet specific criteria. Essentially there are 4 major criteria: 1) the accused must be a first time offender or be "like" a first time offender (where previous conviction was for a minor and/or unrelated offense, or a significant amount of time has elasped since the previous offense); 2) the nature of the offense/dispute is a summary conviction property offense, other offenses such as threat, assault and assault causing bodily harm, and fraud and false pretenses if they involved the buying of necessities; 3) there is an identifiable victim, and; 4) the existence of an ongoing relationship between the complainant and the respondent (not always mandatory).

Mediation hearings are conducted by trained volunteer mediators who typically work in pairs. During the mediation session, both the complainant and respondent are given the opportunity to tell their side of the story without interruption, therefore providing each party with the opportunity to hear the other's point of view. Mediators then focus the discussion on a problem solving approach, at which point the issues are identified and the parties are encouraged to cooperate in setting out the terms of an agreement that are acceptable to both. While the terms of agreements vary greatly, some of the more common terms include: agreement to drop charges, agreement to establish a cooperative relationship, and restitution. Follow-up procedures are utilized to ensure that the terms of the agreement have been met prior to a recommendation from Mediation Services to the Crown Attorney's Office as to whether a case should proceed to court.

From 1984 to 1985 there was a 77 percent increase in referrals to Mediation Services (from 379 to 642). In both years the majority of cases referred (65%) were in the Diversion category. Referrals included cases that were identified by Mediation

Services' staff from the daily listing at the Public Safety Building, which accounted for 55 percent of all referrals. Over this 2 year period the Crown Attorney's Office was the second most frequent source of referral (12% in 1984 and 21% in 1985).

Of the 1,021 cases that were referred to Mediation Services in 1984 and 1985, 45 percent or 465 were mediated. Refusal on the part of the complainant (39%) and the respondent (13%) to participate in mediation accounted for just over one-half of the 55 percent of cases that were not mediated, and the inability of Mediation Services to contact either the respondent or the complainant accounted for a further 17 percent.

Most cases referred to Mediation Services in 1984 and 1985 involved a Criminal Code offense (91%). Offenses against persons accounted for 58 percent of all referrals, property related and other types of Criminal Code offenses accounted for 33 percent and the remaining 9 percent involved community disputes (e.g. family and neighborhood disputes).

Only 6 percent of referrals during this 2 year period involved cases where the complainant and respondent did not have an existing relationship. Where the nature of the relationship between the parties was known, friends and acquaintances made up the largest category (29%), followed by family members (15%) and neighbors (15%).

Approximately three-quarters of all respondents (78%) were male while only about one-half (53%) of all complainants were male. There were twice as many female complainants as there were female respondents (44% compared to 21% respectively).

Once mediated, most cases (90%) resulted in an agreement between the complainant and the respondent. Typically an agreement was reached after only one session, and in most cases (79%), the terms of the agreement were complied with.

Interviews with complainants and respondents (N=112) who had participated in mediation indicated a high level of satisfaction with the process and with the service provided. Mediation was perceived to be an excellent means of "talking out" and

resolving a problem. Of the 97 interviewees who indicated that they had reached an agreement through mediation, 92 percent were either extremely satisfied or satisfied with the agreement, and 81 percent of all interviewees indicated that they would use Mediation Services again if they were ever in the same situation.

Although there were few criticisms of the service, there was some concern expressed regarding inadequate follow-up procedures and enforcement of agreements (14 of 112 respondents or 12%).

Volunteer mediators are required to participate in a 20 hour training session. The training format involves lecture, demonstration, role playing and discussion. In general, mediators feel that the training program is quite good. It was suggested, however, that the training process could be enhanced by bringing in instructors from other mediation programs, and that there was a need for the regular upgrading of skills, or refresher courses.

Representatives of the Judiciary, the Crown Attorney's Office, the Winnipeg Police Force and Defense Counsel who were interviewed supported the concept of mediation, indicating that for some types of cases the process benefits the complainant and the offender by resolving their dispute and allowing their relationship to continue, and offers cost savings to the Criminal Justice System by removing those cases that are inappropriate for the courts. It was suggested that Mediation Services put increased effort into disseminating information about the program to increase the level of awareness and knowledge of the program among the key actors in the Criminal Justice System.

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I Evaluation Framework

1. Preamble:

In response to a request for funding from Mediation Services, the Research, Planning and Evaluation Branch was asked by the Assistant Deputy Attorney General, Criminal Justice Division, to provide information on Mediation Services by way of an evaluation study. The terms of reference for the evaluation were developed in consultation with Mr. Ray Friesen, who was the Director of Mediation Services at the time the evaluation was initiated. The evaluation was designed to provide the Department of the Attorney General with detailed information on this program, as well as to serve as a management tool by those involved with the operation of this program.

This evaluation was carried out by the Research, Planning and Evaluation Branch and by Ms. Anna Woods who was retained as a consultant. Research, Planning and Evaluation completed the review of literature and the review of file data and telephone interviews with complainants and respondents. Ms. Woods conducted the personal interviews with the staff and volunteers of Mediation Services, and with representatives of the criminal justice system that make referrals to the Program.

2. Evaluation Objectives:

a) To provide the theoretical context for mediation in the criminal justice system.
b) To provide an overview of the development of mediation programs in Canada.
c) To provide detailed descriptive information on Mediation Services.
d) To examine the experiences of those respondents and complainants who participated in mediation, and their attitudes toward mediation.
e) To examine the impact of mediation.
f) To determine why respondents and complainants refuse to participate in mediation.
g) To examine the perceptions and attitudes of key actors in the criminal

justice system toward mediation.

h) To provide financial information on the operation of the program.

3. Research Components:

This evaluation consisted of three major research components. Each component is briefly outlined as follows:

(i) Review of File Data:

File data were gathered from Mediation Services' client files. All files opened in 1984 and 1985 were reviewed and detailed information was coded and computer analysed. In total 1,021 files were reviewed. Mediation Services opens a file for every referral, therefore this file review included cases that had not been mediated as well as those that had. A copy of the data collection form can be found in Appendix A.

(ii) Interviews with Participants and Non-Participants:

Complainants and respondents who had participated in mediation and those who had refused to participate in mediation were interviewed by telephone. In total, 112 individuals who had participated in mediation (67 complainants and 45 respondents) and 31 individuals who had refused to participate (28 complainants and 3 respondents) were interviewed.

As mentioned, the sample of interviewees was selected from the 1984 and 1985 case files. Essentially all complainants and respondents who had participated in mediation, or who had refused to participate, and for whom a complete address and phone number could be obtained, were included in the sample of participants. All potential interviewees were first contacted by the Director of Mediation Services by correspondence. The letter explained the purpose of the evaluation and informed these individuals that they should contact Mediation Services directly if they did not wish to be interviewed. (A copy of the letter can be found in Appendix B).

In total, 412 letters were mailed out. Of these, 256 (62%) individuals could not be contacted (e.g. they had moved, were not at home etc.), 13 (3%) refused to be interviewed, and 143 (35%) were interviewed. All interviews were conducted by telephone and a structured questionnaire was used. Two questionnaires were developed, one for those who had actually participated in mediation and one for those who had refused to participate. These questionnaires are contained in Appendix C.

(iii) Interviews with Staff, Volunteer Mediators and Other Key Actors:

Personal interviews were conducted with representatives of the M.C.C. Board of Directors, the Criminal Justice Initiatives Advisory Committee, the staff and volunteers of Mediation Services and referral sources including: Winnipeg Police Department, Crown Attorneys, Defense Counsel, and Judges. In total, 27 interviews were conducted.

M.C.C. Board of Directors	2
Advisory Committee	3
Staff	5
Volunteer Mediators	4
Winnipeg Police Department	3
Crown Attorneys	4
Defense Counsel	3
Judges	2
Agency	1
	27

II BACKGROUND

1. Theoretical Context

The court sytem has often been criticized for the manner in which it deals with conflicts arising from interpersonal disputes. Court procedures are often slow and costly, and the two major actors, i.e. the victim and the accused, do not perceive themselves to be an integral part of the process. The adversarial system forces a set of rules to which all parties must adhere, and the legal procedural matters take precedence at the cost of minimizing the human elements of the original conflict.

In 1975, the Law Reform Commission of Canada published a report entitled "Studies on Diversion" which made the following comments about our court system:

> As the criminal justice system is presently structured, there is only one procedure for settling disputes: adjudication. Any conflict capable of criminal definition which is not solved by negotiation or compromise by the parties must wind up in the courts. But our studies show that in a significantly large number of disputes, the relationship between the parties is one for which adjudication does not provide the answer....
> Yet, having invoked the criminal justice system, they (the parties) must abide by the rules. And the process imposes on them a definition of the problem and solution which does not correspond to their needs and wishes. Our criminal process, based on adversarial techniques, focuses on conflict and forces each party to either win or lose a battle based on society's standards. In the process the individual's characteristics, the nature of their relationship and the purely personal dimension of their dispute are lost. They have been subordinated to an external norm, the public interest.[1]

[1]East York Community Law Reform Project, Studies on Diversion, Law Reform Commission, Ottawa, 1975, p.26-27

The Law Reform Commission Report documents that a significant proportion of calls to police involved situations where the two people knew each other. Thus, once a conflict is dealt with by the criminal justice court system, the complainant is referred to as the "victim" even though s/he may have contributed to the event precipitating the crisis; the other party becomes the offender. The victim is represented by the state and the accused by his/her own counsel. The roles of the crown attorney and defence counsel are to convince the judge that their particular version of the incident is correct. The conflict that began as a dispute between two parties becomes a contest between two legal professionals. The polarity of the system tends to escalate the conflict by defining the accused party as "guilty" or "not guilty" with no middle spectrum capable of addressing the whole range of issues, especially interpersonal, that have brought the two parties to court. Typically the accused wins or loses and the victim always loses.

The paradigm supporting the use of the court system for dispute resolution is best described as follows:

> Crime is not seen as a broken relationship and a break in the fabric of the community. Crime is not seen to involve hurting people nor conflicts that need resolution. Crime is defined as violation of a code and all other elements are subordinate to that. The matter is removed from the care and control of those who interpret the incident and situation as a crime against society and deal with it as such. The fact that most crimes against persons involve people who know each other seems to be ignored.[2]

[2]Friesen, R. "Mediation: An Alternative Within the Criminal Justice System". Crown Counsel's Review. Vol. 4, No. 10, October 1985, p. 11.

The mediation process proposes an alternative to the legal process that does

The mediation process proposes an alternative to the legal process that does not compromise the court's original intention i.e. the safety of persons and the maintenance of an orderly society. The mediation approach recognizes that the dispute belongs to the two disputants and allows them the opportunity to address their overall concerns and to negotiate an agreement that meets the needs of both parties. This includes introducing elements that will allow participation of the victim in the process and therefore increase the satisfaction of the victim by obtaining redress for the offence/event. The respondent in the dispute, by the very nature of mediation, must acknowledge responsiblity for the offending action and seek some means to address the wrong committed.

Mediation is commonly defined as " an approach to conflict resolution in which an impartial third party intervenes in a dispute with the consent of the parties, to assist them in reaching a mutually satisfactory settlement to issues in dispute. Mediation uses a voluntary approach. It is not coercive. Disputants may choose mediation as an alternative and mediators facilitate the encounter but do not foist their own opinions or solutions on the dispute."[3] Mediators are trained to handle disputes to facilitate the reduction of tension and hostilities in a productive fashion. Many of the relatively minor disputes often settled through mediation can involve quite intense and emotionally charged interpersonal conflict despite the fact that a "serious" crime has not been committed. However mediation is particularly suited to these types of disputes as the mediation process provides a mechanism for the venting of victim/offender conflict, anger and frustration unlike the traditional adjudicative process of the court system.

It is clearly recognized by practitioners and experts in the area that not all disputes are suitable for mediation, although there is some variance among mediation programs on this point. However, mediation programs are careful to establish selection criteria to accept cases where mediation is more likely to be suitable and appropriate.

[3]Burkhardt, F. Report on Mediation 1984. Training. Program Development. The Future. A National Workshop. Community Justice Initiatives of Waterloo Region. June 1984. Page 5

2. Historical Development of Mediation Programs in Canada.

The impetus for the development of mediation programs in Canada surfaced in the mid-seventies on the heels of the diversion movement which had preceded it by a few years. Diversion attempted to reduce the numbers of people processed by the criminal justice system for minor crimes in order to avoid stigmatization and to find more appropriate measures for the types of crimes which were termed "socially problematic behaviour". Mediation grew as a specific technique for solving disputes in a manner that could prove to be more satisfactory to the disputants than the adversarial approach inherent in our court system.

Community-based groups began to submit proposals to obtain funding for the innovative approach presented by the use of mediation. By the late seventies mediation programs were operational in Halifax, Québec City, Montréal, Kitchener-Waterloo, Winnipeg and Regina/Moose Jaw. In 1978, mediation practitioners met at a conference in Montebello, Québec to discuss common concerns, which was the first event of its kind.

There are presently many types of mediation programs across Canada. Some are "system based" in that they receive referrals from the police and/or crown prosecutors and intervene at the pre-charge or post-charge level. Depending on the jurisdiction where the program is located and the program structure, unsuccessful mediation or not meeting the conditions of the mediated agreement will result in the return of the case to the criminal court. Other programs have a broader range in that they will take community-based referrals where no "crime" has been committed but where disputes need to be resolved. These disputes could include landlord/tenant disagreements, disputes between or among neighbours, employer/employee disputes, etc. Program models can vary considerably which is an indication of how local programs are able to adapt to local needs.

In the last few years a considerable number of programs/projects have developed utilizing mediation techniques in the family law area. Some programs are able to deliver conflict resolution services for all types of disputes.

In addition, since the coming into force of the Young Offenders Act in April 1984, the provision relating to "alternative measures" has encouraged the use of mediation in some of these cases. Thus the greater number of mediation programs presently in effect in Canada operate in the youth justice system.

In the criminal justice area, mediation programs have been plagued by the ongoing battle to obtain permanent funding and by the difficulties in establishing credibility with justice referral sources to obtain sufficient referrals. Also linked to the latter problem, is the difficulty in "selling" the mediation concept in a system which has historically operated according to legislative definitions with the end result of criminal adjudication.

Despite these problems, mediation programs continue to exist and the "Directory of Canadian Dispute Resolution Programs" lists 24 criminal justice or youth justice mediation projects presently in operation. Appendix D contains a list of these programs.

3. Local Development - Mediation Services, Winnipeg, Manitoba.

Mediation Services has existed in Manitoba since 1979 as one of five programs which then formed part of the Mennonite Central Committee's (M.C.C.) Community Justice Initiatives (C.J.I.). As it originated, the Program was envisaged to serve a post plea function and was at that point called the Victim Offender Mediation Program (V.O.M.P.). In post-plea cases, after a plea of guilty is entered, the case is referred for victim/offender mediation and the final agreement forms part of the sentencing package. The Program experienced difficulties in obtaining referrals at the post-plea level as mediation as an alternative form of sentencing was not an accepted concept in the court system. At the time of the 1979 Annual Meeting, V.O.M.P. had received only 13 referrals.

Despite this initial setback, a member of the judiciary suggested that the Program should offer its services to the private prosecution court where cases can be appropriately classified as neighbourhood disputes. These disputes traditionally result in a court appearance when no other method of resolution is available. At the 1980 Annual Meeting V.O.M.P. changed its name to Mediation Services in order to accomodate this expanded role.

In 1982, the Director of Mediation Services met with all the judges at the Public Safety Building and began to sit in "docket" court where he would indicate which cases were suitable for mediation at the post-plea stage. However, this approach did not substantially increase post-plea referrals. With support from the Winnipeg Police Department, it was decided that the Program should also receive referrals at an earlier point i.e. post-charge or what the Program refers to as diversion.

In diversion, the accused is charged with a Criminal Code offense and if s/he meets the selection criteria, the mediation process is initiated while the court proceedings are delayed. If an agreement is reached and successfully completed and the Crown Attorney agrees, a stay of proceedings is entered.

As a result of the diversion cases, Mediation Services was able to establish itself and by 1983 a significant number of cases were mediated. Mediation Services

continues to accept three types of cases for mediation: post-plea, diversion and community disputes.

4. Objectives of Mediation Services

The objectives of the program, as stated by the Director of Mediation Services are as follows:

1.To respond to crime in a way that interprets the incident as involving persons with feelings, concerns and needs.

2.To provide a way for the victims of crime to be directly involved in resolving matters and dealing with matters that affect them.

3.To hold persons accountable for their behaviour particularly where they have victimized someone.

4.To provide the opportunity to deal with criminal and civil matters in one process rather than two.

5.To allow accused persons to take responsibility for their actions in ways that are constructive, that allow them to feel like responsible members of society, and that help to minimize the possibility of long term penalties and/or a criminal record.

6. (a) To divert those matters from the court process that can more effectively and more efficiently be dealt with in mediation.

(b) To provide mediation as part of the criminal court process in those instances where diversion is inappropriate.

7.To help people deal with conflict in a way that can lead to reconciliation, forgiveness and healing.

8.To serve as an education resource to the community so that mediation can become a more visible and acceptable part of life.

III Organizational Structure

1. Committee Structure:

Mediation Services represents one of three "Criminal Justice Initiatives Programs" operated by the Mennonite Central Committee, Manitoba (M.C.C.).[4] The Board of Directors of the Mennonite Central Committee, which consists of thirty-two representatives from Sourt West rural and urban areas of Manitoba, meets three times a year.

An Advisory Committee, consisting of two representatives from each of M.C.C. outside agencies, the community in general, and the Directors of the three Criminal Justice Initiatives Programs, assists the Board of Directors of M.C.C. with the operation of the Criminal Justice Initiatives. It also serves as an informal resource to the Directors of the Criminal Justice Initiatives. This Committee meets ten times a year.

2. Staff:

The staff of Mediation Services consists of an Executive Director, a Supervisor of Casework, a Caseworker, a volunteer co-ordinator, and a part-time secretary. During the summer it has been possible to hire two or three additional staff through student grants. Staffing is partially provided for by the Volunteer Service program of M.C.C.

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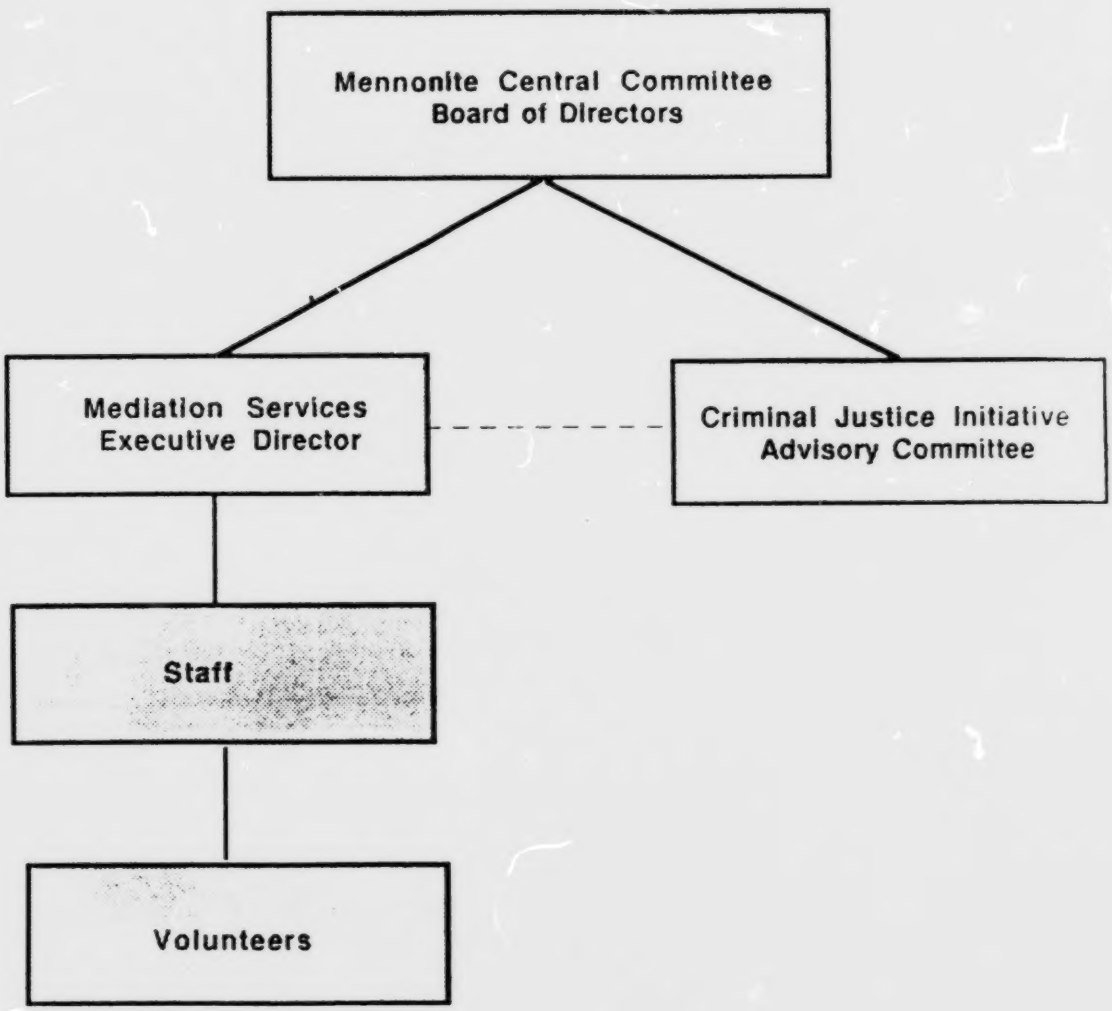
[4]The other Criminal Justice Initiatives Programs are El'dad Ranch, a family setting for borderline mentally handicapped persons in conflict with the law, and Open Circle, a prison visitation program.


Mennonite Central Committee
Board of Directors
Mediation Services
Executive Director
Criminal Justice Initiative
Advisory Committee
Staff
Volunteers

3. Volunteers:

Mediation hearings are conducted, for the most part, by volunteer mediators. The use of volunteers in mediation is based on the belief that members of the community should be involved in the resolution of community conflict. Mediation Services currently has 36 active volunteers, ranging in age from 22 to 60. Until recently, almost all volunteers were Mennonite, reflecting the fact that the recruitment of volunteers was largely targetted at the Mennonite community. The methods of recruitment have centered on announcements in the bulletins of Mennonite churches. Mediation Services has never had any difficulty in recruiting the number of volunteers required from the Mennonite community. More recently attempts have been made to recruit volunteers from other ethnic groups. These attempts, which have been by word of mouth, have increased the number of non-Mennonite volunteer mediators to 12, or one-third of all volunteers.

Volunteers are required to participate in training sessions. Such sessions are held two to three times per year, as needed. The training involves a 20 hour course, which is typically held one night a week over a 7 week period. The format involves lecture, demonstration, role playing and discussion. Enrollment in these training sessions is limited to 20 people.

Training sessions not only fulfill the organization's need for volunteer mediators, but it also fills part of the organization's education mandate. Trainees are informed at the outset of the session that they are under no obligation to become regular volunteers if they take the course. Upon completion of the course, trainees are given the opportunity to fill out an application to become regular volunteers. The application form is much like a job application, and includes such basic items as a request for references. Mediation Services reserves the right not to accept an applicant. If the applicant is accepted, he or she must make a commitment to mediate at least once a month for a six month period.

IV Service Delivery Components

1. Introduction: The Mediation Process

Case flow of clients through the mediation process operates as follows:

Referral Process - Cases are referred to Mediation Services or they are identified by the staff of Mediation Services from the files of the Winnipeg Police Department.

Intake Criteria - The cases are screened by the staff of Mediation Services to ensure that they meet specific criteria. If the intake criteria are met both parties are contacted to determine if they are willing to participate in the mediation process. At this point there are four possible outcomes:

- No further action results because one or both parties refuse to participate.

- No further action results because the dispute is already resolved, or it was resolved over the phone.

- The case is referred to another social service agency and there is no further action on the part of Mediation Services.

- Parties agree to participate and a mediation hearing is scheduled.

The Mediation Hearing - Typically one mediation hearing occurs. Three general outcomes are possible at this point of the process:

- An agreement (written or verbal) is reached.

- Mediation breaks down and there is no further action.

- An agreement is not reached and a further hearing is scheduled.

Follow-Up Procedures - If the Courts are involved with the case (Diversion and Post Plea cases), the case is monitored by Mediation Services in order to determine whether the terms of the agreement have been met. The Crown is notified of the outcome of the mediation process and a recommendation is made as to whether the charges should be stayed or whether they should proceed through the Courts. In all cases where a cash settlement is involved, the payment is handled by Mediation Services.

Each of these components of the mediation process will be discussed in more detail in the following sections.

2. The Referral Process

Mediation Services currently receives cases from three major sources: community referrals, referrals from various sources within the criminal justice system, and cases identified as appropriate by staff and submitted for approval to the Winnipeg Police Department and the crown attorney's office. Most cases come from the latter source.

A staff member goes to the Public Safety Building on a daily basis and reviews the "dailies", or the daily listings and short descriptions of incidents in which arrests have been made and individuals have been detained. Staff also have access to the more detailed police reports of cases which appear to be appropriate for mediation, as

well as previous police records of accused parties. When cases are deemed appropriate for mediation, a copy of the relevant pages of the police report (Winnipeg Police Department) together with previous records where relevant (FPS), are submitted for approval, first to the appropriate police staff inspector, then to the appropriate crown attorney.

The Crown keeps the case on the docket until the mediation process is completed and a report from Mediation Services has been received. At this point the Crown makes a decision as to whether the charge will be stayed or whether it will continue on through the criminal court process.

3. Intake Criteria

Mediation Services has a set of conditions that must be met before a case is considered for mediation.

1. Accused:

- First time offender or "like" first time offender (where the previous conviction was for a minor and/or unrelated offense or a significant amount of time has passed since the previous offense).

2. Offenses:

-Offences such as Threats, Assault, and Assault Causing Bodily Harm.

-Summary conviction property offenses such as: Willful Damage, Mischief and Theft under $1000.

-Offences such as Fraud and False Pretenses may be eligible if they involved the buying of necessities e.g. food, clothing, shelter.

3. Complainant:

- Identifiable victim - a person who was directly affected by the offense. The exception to this is mischief charges where a business property has been inadvertantly damaged (e.g. property damage occurs to a rented premise during the course of a dispute, so that the landlord becomes involved).

4. Relationship Between Parties:

- The existence of an ongoing relationship (e.g. friends, neighbors) between the victim and the offender is a positive factor in the selection of cases, however, it is not mandatory. (This is based on the premise that individuals involved in a relationship will be more motivated to agree to mediation). The exception to this is wife abuse cases. These cases are considered to be inappropriate for mediation because they generally require long-term counselling and a highly skilled, experienced counsellor.

4. The Mediation Hearing

The model for mediation employed at Mediation Services is based on that used by Kitchener-Waterloo Mediation Services. However, elements and concepts from other approaches have also been incorporated.

Mediation Services places an emplasis on mediators working in pairs. Frequently this involves matching a more experienced mediator with a less experienced mediator. In other cases, mediators will be matched with client characteristics (e.g. matching the gender and/or age of the parties and the mediators).

The setting for the hearings in informal and efforts are made to put the clients at

ease; e.g. smoking is allowed, coffee is provided, a first-name relationship is established between the mediators and the clients. The mediation hearing can be described in terms of a number of relatively distinct phases:

(i) Introduction:

The standard introduction includes a basic statement of the role and purpose of the mediator, an assurance of confidentiality, and a description of the mediation process. The parties are then asked if this is acceptable before the mediators proceed.

(ii) "Story-Telling" Stage:

Once basic introductions are completed, each party is given the opportunity to tell their side of the story without interruption. Mediators will ask questions and use probe techniques to elicit further relevant details and to have parties expand on the basic facts of the situation. This activity is informative for the mediators, who usually know only the basic details of a case before the session. It also allows each party to hear the others point of view; something which they frequently have not had the opportunity to do before the mediation session.

(iii) Problem Solving:

When the basic facts of a case have been communicated the focus can shift to identification of issues; what problems have arisen out of the incident(s) in question, what kinds of damages have been incurred, what the parties see as necessary to restore the balance. These and related issues are raised and discussed until it is clear that all the major concerns of the parties have been raised. Mediators work to summarize the matters that are in dispute, as well as identifying areas of common agreement. Separate "caucus" meetings may be held with the parties during the

course of a session, at the discretion of the mediators. These meetings may be used to refocus the hearing, for purposes of negotiation, or to give one party the opportunity to speak confidentially to the mediators.

(iv) Agreement:

The final major phase of mediation involves setting out the terms of an agreement. As terms are agreed upon by the parties verbally, one of the mediators will write them down and read them back for verification. A final copy of the agreement is drafted when all parties are satisfied with the details. The agreement is then signed by all present. (Sample agreement in Appendix E).

The exact terms of an agreement will be as varied as the people who are party to them, but agreements do contain a number of fairly standard or typical clauses. The first clause usually will be a general statement to the effect that the parties regret the incident(s) involving the conflict between them and wish to put it in the past. This statement will reflect what usually happens in a successful mediation, which is at least a partial reconciliation. Some degree of reconciliation is usually necessary if agreement on the more concrete issues is to be achieved.

The final clause in an agreement will usually be a statement by the victim, indicating the he or she does not object to the charge(s) being stayed by the Crown, and asks Mediation Services to recommend that the charges against the accused be stayed. Other clauses will specify the more exact nature of the agreement between the parties to the dispute. Examples of terms of agreement include formal apologies, payment of restitution, volunteer work, and counselling in some instances.

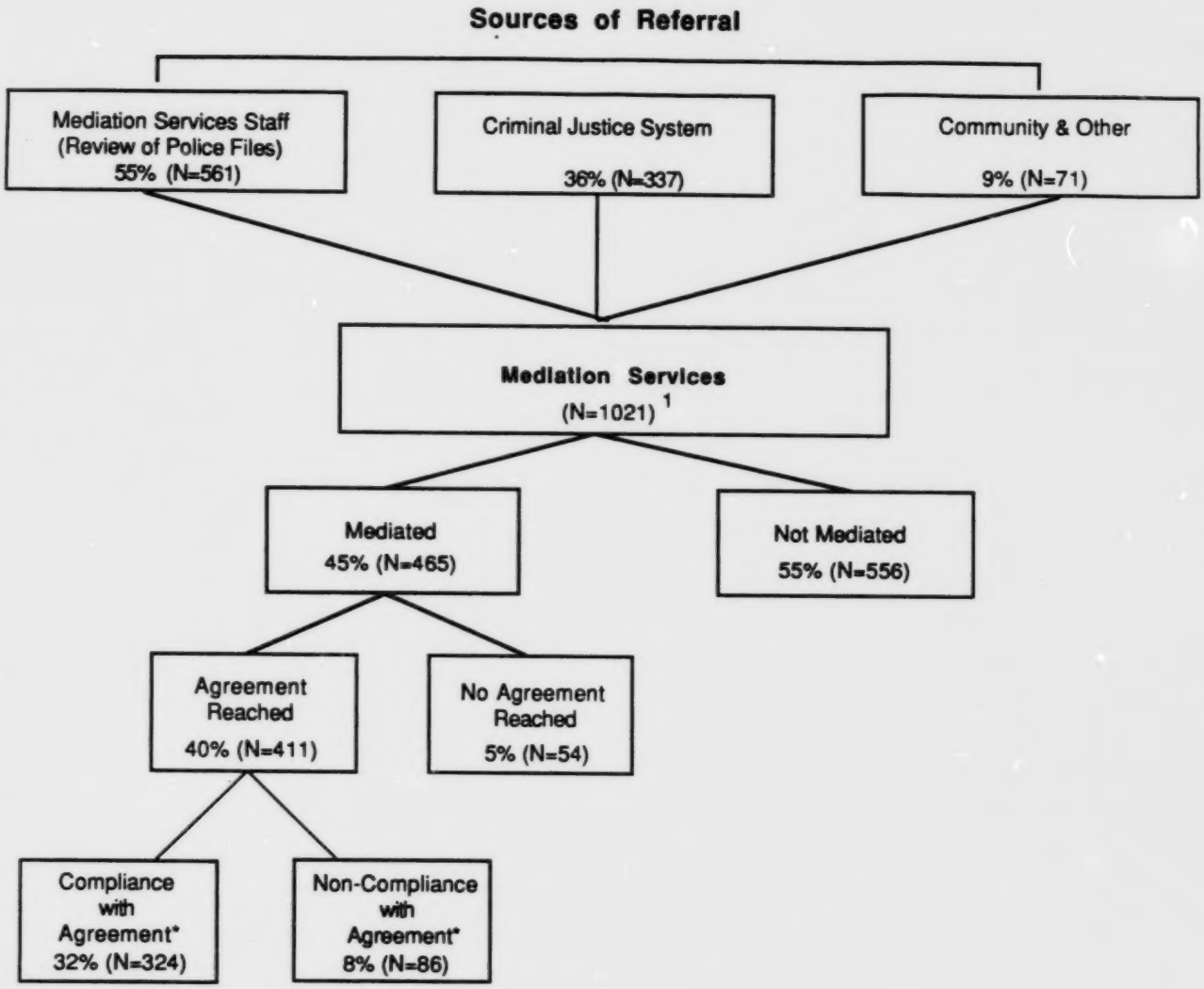
Agreements do not indicate guilt, and Mediation Services advised that these contracts may be legally binding providing they contain some sort of consideration for the victim.

5. Follow-Up Procedures:

An increase in the mediation of diversion cases has caused Mediation Services to establish more rigorous follow-up procedures. In the past a report complete with a recommendation would be sent to the Crown Attorney immediately following the successful mediation of an agreement without ensuring that all the terms of the agreement had been complied with. Now a case is not deemed to have been successfully mediated until all the terms of the agreement have been met. If the terms of the agreement involve such actions as seeking counselling, or carrying out volunteer work, the case worker contacts the relevant agencies to ensure that these conditions have been met before making a recommendation to the Crown Attorney.

Mediation Services has always handled the payment of cash between the complainant and the offender. Payment is made directly to Mediation Services and a cheque from Mediation Services is then forwarded to the complainant.

Mediation Services: Diagram of Case Flow


Sources of Referral
Mediation Services Staff (Review of Police Files) 55% (N=561)
Criminal Justice System 36% (N=337)
Community & Other 9% (N=71)
Mediation Services (N=1021) 1
Mediated 45% (N=465)
Not Mediated 55% (N=556)
Agreement Reached 40% (N=411)
No Agreement Reached 5% (N=54)
Compliance with Agreement* 32% (N=324)
Non-Compliance with Agreement* 8% (N=86)

[1] The source of referral was unknown for 52 (5%) of cases.

* Compliance and Non-compliance with mediated agreements was projected based on the results of the telephone interviews. 77 of 97 respondents (79%) indicated that the agreement had been complied with.

V Case and Client Characteristics

1. Introduction:

This section presents a description of case and client characteristics for all cases dealt with by Mediation Services during 1984 and 1985. Case characteristics include the nature of the offense/dispute, source of referral and the relationship between the parties. Client characteristics include age and gender.

The descriptive information presented in this section was gathered by reviewing Mediation Services' case files. One thousand and twenty-one files were reviewed, representing all cases referred to Mediation Services during 1984 and 1985. [A copy of the data collection instrument can be found in Appendix A]

2. Case Characteristics (All Referrals):

The total number of referrals made to Mediation Services was 379 in 1984 and 642 in 1985. This indicates a 77 percent increase in caseload from 1984 to 1985.

a) Type of Case:

The nature or types of cases referred to Mediation Services are classified as Community Disputes, Diversion and Post Plea. In both 1984 and 1985 Diversion cases made up the largest part of Mediation Services' caseload (64% in 1984 and 65% in 1985). From 1984 to 1985 the proportion of caseload involving Community Disputes decreased by 15 percent. During this time there was a corresponding increase in the proportion of Post Plea referrals (from 6% in 1984 to 20% in 1985) (Table 1).

Table 1

Type of Case By Year

	1984	1985	Total
Community Disputes	30%	15%	20%
Diversion	64%	65%	65%
Post Plea	6%	20%	15%
	100%	100%	100%
	(379)	(642)	(1021)

b) Source of Referral:

Mediation Services receives referrals from the public at large, from many different social service agencies, from criminal justice system personnel as well as from police officers and crown attorneys on recommendation from the staff of Mediation Services.

The majority of cases were selected by Mediation Services' staff in both 1984 and 1985 (56% in 1984 and 55% in 1985). The second most frequent source of referral was the Crown Attorneys' Office. Referrals from crown attorneys increased from 47 in 1984 to 134 in 1985 (12% to 21%). Defense lawyers also referred a substantial number of cases to Mediation Services (87 cases in total for 1984 and 1985, representing 9% of the total caseload) (Table 2).

Table 2

Source of Referral By Year

	1984	1985	Total
Mediation Services Staff	56%	55%	55%
Crown Attorneys	12%	21%	18%
Defense Counsel	10%	8%	9%
Police	3%	3%	3%
Magistrates	1%	4%	3%
Alternative Sentencing Planning	2%	2%	2%
Complainant	1%	2%	2%
Legal Aid	1%	1%	*
Community Dispute Centre	0	2%	1%
Probation Services	0	1%	*
Other	1%	2%	2%
Unknown	13%	*	5%
TOTAL	100%	100%	100%
	(379)	(642)	(1021)

* Denotes less than 1 percent.

c) Nature of Offense/Dispute:

The 1,021 files reviewed included a total of 1,236 offenses or disputes. The overwhelming majority of cases referred allegedly involved a Criminal Code offense (91%) (Table 3).

Table 3

Nature of Offense/Dispute (1984 & 1985)

	Number	Percent
Criminal Code Offenses:		
Against Persons:		
Assault	290	
Assault Cause Bodily Harm	190	
Possession of Weapon Dangerous to the Public Peace	158	
Assault with weapon	56	
Aggravated assault	18	
	712	58%
Other Criminal Code Offenses		
Mischief	114	
Utter threat	61	
Theft over $200	50	
Harassment	30	
Theft under $200	25	
Break and Enter	25	
Other Criminal Code	108	
	413	33%
Nature of Other Disputes:		
Family/Marital	34	
Pets	27	
Neighborhood	11	
Other	39	
	111	9%
(TOTAL)	(1236)	100%

Table 4

Nature of Relationships Between Parties

	Number	Percent
Friends/Acquaintances	217	29%
Family	109	15%
Neighbors	109	15%
Married	53	7%
Common-Law	48	6%
Business Associates	38	5%
Landlord/Tenant	31	4%
Employee/Employer	24	3%
Boyfriend/Girlfriend	20	3%
Divorced/Separated	16	2%
Fellow Employees	13	2%
Roommates	11	1%
Social Services	6	1%
No relationship	45	6%
	740	100%
(Unknown)	(281)	
TOTAL	1021	

Fifty-eight percent of all offenses/disputes referred were Criminal Code offences against persons. Of these, the most frequent consisted of offences against the person i.e. assault (n=290) and assault causing bodily harm (n=190). The second largest offence group was possession of a weapon dangerous to the public peace (n=158).

Other Criminal Code offenses constituted 33 percent of all offenses/disputes referred to Mediation Services during 1984 and 1985. Mischief (n=114), utter threat (n=61), and theft over $200[5] (n=50) were the most common offenses in this category.

Only 9 percent of offenses referred to Mediation Services over the two year period involved non-criminal code offenses. The nature of disputes in this category were family and marital disputes (n=34), disputes involving pets (n=27), and neighborhood disputes (n=11).

d) Relationship Between Parties:

For those cases where the relationship between the complainant and respondent was known (n=740), the most common type of relationship was that of friends or acquaintances (29%). Fifteen percent of the cases involved family members and a further 15 percent involved neighbors. Married and common-law relationships made up 13 percent of the sample cases (Table 4).

[5]This category of offence was prior to the Criminal Code amendment which redefined this offence as theft under $1000.

3. Client Characteristics (All Referrals):

a) Gender:

Approximately three-quarters of all respondents (78%) were male while only about one-half (53%) of all complainants were male. There were twice as many female complainants as there were female respondents (44% to 21% respectively) (Table 5).

Table 5

Sex of Respondents and Complainants
(1984 & 1985)

	Respondents	Complainants
Male	78%	53%
Female	21%	44%
Businesses	1%	3%
TOTAL*	100% (1073)	100% (101)
(Unknown)	5% (58)	5% (63)

* The total number of respondents and complainants exceeds the number of cases since there can be more than one respondent and complainant per case.

b) Age:

The largest age category for both respondents and complainants was the 18 to 27 age category. Fifty percent of respondents and 42 percent of complainants were in this age category. The next largest age category was 28 to 37; 25 percent of respondents and 24 percent of complainants were in this age group. This was followed closely by the 38 to 65 age group, accounting for 18 percent of respondents and 23 percent of complainants. Only a very small number of both respondents and complainants were 65 years of age or older (Table 6).

There was no substantial difference in the age of respondents and complainants.

Table 6

Age of Respondents and Complainants

Age:	Respondents	Complainants
8-17	6%	11%
18-27	50%	42%
28-37	25%	24%
38-65	18%	23%
65+	1%	*
TOTAL	100% (888)	100% (755)
(Unknown)	(178)	(319)

* Denotes less than 1 percent

Table 7

Participation in Mediation

	1984	1985	Total
Mediated	50%	43%	45%
Not Mediated	50%	57%	55%
	100%	100%	100%
	(379)	(642)	(1021)

Reason Case Was Not Mediated:+

	1984	1985	Total
Respondent refused	10%	14%	13%
Complainant refused	38%	39%	39%
Referred elsewhere	1%	2%	2%
Complainant decided not to pursue	4%	*	2%
Respondent signed peace bond	2%	*	1%
Could not contact respondent	5%	9%	8%
Could not contact complainant	11%	8%	9%
Parties solved on own	4%	6%	5%
Respondent plead guilty in court	2%	1%	1%
Crown did not approve	3%	0	1%
Accused plead not guilty	0	5%	3%
Other	19%	15%	17%
Unknown	1%	0	*
	100%	100%	100%
	(190)	(366)	(556)

* Denotes less than 1 percent
+ Information presented in this table was gathered from client files

VI Outcome of Referrals to Mediation Services

1. Introduction:

Information pertaining to the outcome of referrals to Mediation Services was obtained from case files as well as from telephone interviews with individuals who had participated and those who had refused to participate in mediation.

2. Outcome of Referrals to Mediation Services

Forty-five percent of all cases referred to Mediation Services during 1984 and 1985 were actually mediated. The proportion of cases mediated decreased from 50 percent in 1984 to 43 percent in 1985 (Table 7).

The most common reason identified in the files for cases not going to mediation was that the complainant refused (38% in 1984 and 39% in 1985). Other reasons were that the respondent refused or that either the respondent or the complainant could not be contacted by Mediation Services.[6]

a)Type of Case:

Participation in mediation varied greatly with respect to the type of case (Table 8). Cases classified as "diversion" were more likely to be mediated (58%) than were cases involving community disputes or post plea (29% and 22% respectively). Of all cases mediated during 1984 and 1985 (n=465), 80 percent were diversion cases.

[6] Information on the reasons complainants and respondents refused to participate in mediation was also obtained by interviewing a small sample of these individuals. The findings from this survey are presented in part 5 of this section of this report.

Table 8

Participation in Mediation by Type of Case

	Community Dispute	Diversion	Post Plea
Mediated	29%	56%	22%
Not Mediated	71%	44%	78%
	100% (207)	100% (659)	100% (155)
Reason Case Was Not Mediated:+			
Respondent refused	20%	7%	18%
Complainant refused	27%	55%	16%
Referred elsewhere	3%	1%	2%
Complainant decided not to pursue	5%	*	0
Respondent signed peace bond	3%	*	0
Could not contact respondent	3%	5%	19%
Could not contact complainant	5%	14%	2%
Parties solved on own	11%	4%	1%
Respondent plead guilty in court	0	2%	0
Crown did not approve	0	2%	0
Accused plead not guilty	0	*	13%
Other	6%	4%	7%
Unknown	16%	6%	22%
	100% (148)	100% (287)	100% (121)

+Information presented in this table was gathered from client files.
* Denotes less than 1 percent

Table 9

Participation in Mediation by Nature of Relationship Between Parties

	Common-Law/ Married	Divorced/ Separated	Friends/ Acquaintances/ Roommates	Family	Neighbors	Civil*	No Relationship	Unknown
Mediated	72%	69%	52%	46%	39%	41%	42%	34%
Not Mediated	28%	31%	48%	54%	61%	59%	58%	66%
	100% (101)	100% (16)	100% (248)	100% (109)	100% (109)	100% (93)	100% (45)	100% (281)

* Refers to Business Associates, Employee-Employer, and Landlord-Tenant relationships.

The reason for non-mediation varied somewhat with respect to the type of case. The most frequent reason recorded in the files for the non-mediation of community disputes and diversion cases was complainants' refusal to participate (27% and 55% respectively). For post plea cases, non-mediation was attributed to the inability to contact the respondent (19%), refusal of the respondent or complainant to participate (18% and 16% respectively), or the respondent plead not guilty (13%).

b) Relationship Between Parties:

Participation in mediation also varied by the nature of the relationship between the respondent and the complainant (Table 9). Participation was highest among those cases where the relationship was one of common-law or married (72%), divorced or separated (69%) and friends or acquaintances (52%). Participation was lowest in cases where the complainant and respondent were neighbors (39%), where the relationship is described as "civil" (business associates, employer-employee and landlord-tenant) (41%), and where there was no relationship between the parties (42%).

c) Nature of Offense/Dispute:

The rate of participation in mediation is fairly consistent across all types of offense or dispute categories. The lowest rate of participation is in relation to disputes classified simply as neighborhood disputes (9%) and disputes regarding pets (19%). It should also be noted that the rate of participation in mediation was generally higher for Criminal Code offenses against the person than it was for other types of offenses or disputes. (Table 10).

Table 10

Participation in Mediation by Nature of Offense/Dispute

	Mediated	Not Mediated
Criminal Code Offenses:		
Against Persons		
Assault	52%	48%
Assault Cause Bodily Harm	52%	48%
Assault With Weapon	43%	57%
Aggravated Assault	56%	44%
Possession of Weapon Dangerous to Public Peace	53%	47%
	51%	49%
	(363)	(349)
Other Criminal Code Offenses		
Utter Threat	39%	61%
Break & Enter	92%	8%
Theft Under $200	24%	76%
Theft Over $200	44%	56%
Mischief	54%	46%
Harassment	43%	57%
Other	29%	71%
	44%	56%
	(182)	(231)
Nature of Other Disputes:		
Pets	19%	81%
Family/Marital	59%	41%
Neighborhood	9%	91%
Other	33%	67%
	42%	58%
	(47)	(53)

3. Mediated Cases: Outcome Information

a) Outcome of Mediation:

Once mediated, most cases result in some sort of an agreement between the complainant and the respondent. In 1984, 90 percent of mediated cases resulted in an agreement and the corresponding figure for 1985 was 87 percent (Table 11).

Table 11

Outcome of Mediation

	1984	1985	Total
Agreement Reached	90%	87%	88%
No Agreement Reached	10%	13%	12%
	100% (189)	100% (276)	100% (465)

The outcome of the mediation process is related to the type of case. As shown in Table 12, Diversion and Post Plea cases were much more likely than Community Disputes to result in an agreement (91% of Diversion and Post Plea cases that were mediated resulted in an agreement compared to only 69% of Community Disputes).

Table 12

Outcome of Mediation by Type of Case

	Community Disputes	Diversion	Post Plea
Agreement Reached	69%	91%	91%
No Agreement Reached	31%	9%	9%
	100% (59)	100% (372)	100% (34)

The nature of the relationship between the complainant and the respondent (Table 13) does not appear to be related to the outcome of mediation although the small number of cases in some of these categories suggests that caution should be exercised in any analysis of these findings.

Similarly, the type of offense or dispute (Table 14), does not appear to be related to the outcome of mediation, but again the base numbers in some categories are very small.

Table 13

Outcome of Mediation by Nature of Relationship Between Parties

	Common-Law/ Married	Divorced/ Separated	Friends/ Acquaintances/ Roommates	Family	Neighbors	Civil*	No Relationship	Unknown
Agreement	95%	73%	90%	86%	84%	84%	84%	89%
No Agreement	5%	27%	10%	14%	14%	16%	16%	11%
	100% (73)	100% (11)	100% (129)	100% (50)	100% (43)	100% (38)	100% (19)	100% (93)

* Refers to Business Associates, Employee-Employer, and Landlord-Tenant relationships.

Table 14

Outcome of Mediation by Nature of Offense/Dispute

	Agreement Reached	No Agreement Reached	# of Cases
Criminal Code Offenses:			
Against Persons			
Assault	89%	11%	(149)
Assault Cause Bodily Harm	92%	8%	(98)
Assault with Weapon	88%	12%	(24)
Aggravated Assault	90%	10%	(10)
Possession of Weapon Dangerous to Public Peace	94%	6%	(83)
Other Criminal Code Offenses:			
Utter Threat	96%	4%	(24)
Break & Enter	91%	9%	(23)
Theft Under $200	100%	0	(6)
Theft Over $200	91%	9%	(22)
Mischief	87%	13%	(62)
Harassment	77%	23%	(13)
Other	87%	13%	(31)
Nature of Other Disputes:			
Family/Marital	60%	40%	(20)
Other	53%	47%	(19)

b) Number of Mediation Sessions:

The overwhelming majority of cases were mediated in one mediation session. The proportion of mediated cases in one session increased from 84 percent in 1984 to 93 percent in 1985 (Table 15).

Table 15

Number of Mediation Sessions Per Case by Year

Number of Sessions	1984	1985	Total
one	84% (158)	93% (256)	89% (414)
two	9% (18)	4% (11)	6% (29)
three	4% (7)	0	2% (7)
unknown	3% (5)	3% (10)	3% (15)
TOTAL	100% (188)	100% (277)	100% (465)

c) Terms of Mediated Agreements:

Typically the terms of mediated agreements are: to drop charges (81%), to establish a co-operative relationship (51%), and to transfer monies

(i.e. restitution) (37%). From 1984 to 1985 there was a substantial increase in the proportion of agreements that involved agreement to drop charges (from 63% in 1984 to 96% in 1985). Appendix F contains an example of a mediation agreement (Table 16).

Table 16

Terms of Agreement by Year

Terms of Agreement++	1984	1985	Total
Establishing co-operative relationship	57%	46%	51%
Agreement to drop charges	63%	96%	81%
Disengaging	9%	9%	9%
Transfer of money	32%	42%	37%
Rendering services	2%	5%	4%
Community service work	2%	3%	3%
Return of property	2%	1%	2%
Peace bond signed	1%	1%	1%
Agreed to mediation	5%	1%	3%
Agreed to outside counselling	6%	13%	10%
Abstain from alcohol	2%	4%	3%
Donation to charity	1%	*	1%
Apology	5%	9%	7%
Agree not to own firearms	1%	0	*
Unknown+	13%	29%	29%
Total number of agreements	(171)	(211)	(382)

* Denotes less than 1 percent.
\+ Consists of verbal agreements or cases where a copy of the agreement was not on file.
++ There may be more than one term per agreement.

Table 17

Reason for Participating in Mediation

	Respondent	Complainant	Total #	Total %
To avoid court	14	26	40	36%
To save legal fees	1	0	1	*
Advised by family/friends	3	2	5	4%
Advised by lawyer	4	7	11	10%
Wanted to sort out problem	4	0	4	4%
To avoid a conviction	5	0	5	4%
To give respondent another chance/ to keep respondent out of jail	0	7	7	6%
Advised by respondent/complainant	1	1	2	2%
City would not enforce by-law	0	1	1	*
Was contacted by mediation services	4	7	11	10%
Religious reasons	0	1	1	*
Availability of good service	5	7	12	11%
Wanted to meet other party/let accused know how much he hurt me	0	4	4	4%
Advised by police	2	2	4	4%
No charge for service	0	1	1	*
Thought it was compulsory	1	1	2	2%
No reason	1	0	1	*
Number of Respondents	(45)	(67)	(112)	

* Denotes less than 1 percent

Descriptive or qualitative measures of the outcome of the mediation process and participants' opinions of the quality of service provided were obtained by interviewing a sample of complainants and respondents who had gone through mediation. A total of 112 interviews were conducted by telephone, 45 with respondents and 67 with complainants.

a. Reasons For Participating in Mediation:

The major reason stated by both complainants and respondents for participating in mediation was to avoid court (36%). A further 5 respondents (4%) indicated that they had attended to avoid a conviction. The availability of good service (11%), and the advice of a lawyer to participate (10%) were other common reasons stated. Ten percent of complainants and respondents said that they attended Mediation Services simply because they had been contacted by this service. Frequent reasons given by complainants for participating in mediation was to "give the respondent another chance" or "to keep the respondent out of jail" (7 complainants), and to meet the respondent and make this person aware of how much s/he had hurt them (4 complainants) (Table 17).

b. Perceptions of Mediation Services:

Clients' opinions of Mediation Services were measured in a series of items, including general questions on what they liked and disliked about Mediation Services and more specific questions regarding the quality of service provided.

Essentially mediation was thought to be an excellent means of "talking out a problem". Twenty participants (18%) indicated that they appreciated having the opportunity to "get the stories straight" by talking to the other party. Similar comments

were that mediation "got the parties together" (15%), and that the process "helped to resolve differences" (16%). Positive comments were also made about the informal and friendly atmosphere (17%), and the professional and competent service that is provided (13%) (Table 18).

Table 18

Positive Comments About Mediation Services

	Respondent	Complainant	Total (#)	Total %
Helped to resolve differences	8	10	18	16%
Informal/friendly atmosphere	9	10	19	17%
Got parties together	8	9	17	15%
Got the stories straight/ talked it out	9	11	20	18%
Professional and competant service	2	12	14	13%
Liked the concept of mediation	4	6	10	9%
Impartiality (fairness) of mediators	3	5	8	7%
Saved legal fees	3	3	6	5%
Saved time	2	3	5	4%
Good alternative to court	1	1	2	2%
Run by a Christian	0	1	1	*
Received restitution	0	1	1	*
Good overall	1	0	1	*
Mediators understood nature of dispute	1	0	1	*
Convenient	1	1	2	2%
Nothing	2	8	10	9%

* Denotes less than 1 percent.

It is noteworthy that when asked what they disliked about Mediation Services, 78 of the 112 participants who were interviewed (70%) replied that there was nothing that they disliked. Of those who did respond to this question, common complaints pertained to the lack of enforcement of agreements (8%), a lack of follow-up (4%) and a perceived bias in favor of the other party, typically in favor of respondents (5%) (Table 19).

Table 19

Negative Comments About Mediation Services

	Respondent	Complainant	Total (#)	Total %
Enforcement of agreement not provided (did not receive restitution)	2	7	9	8%
No follow up	1	4	5	4%
Biased in favor of other party	1	5	6	5%
Was useless for particular dispute	1	2	3	3%
Felt pressured to attend	2	0	2	2%
Mediation services called too often	2	0	2	2%
Belittled me	0	1	1	*
Too impartial	0	2	2	2%
Inconvenient	1	0	1	*
Poor emphasis to detail	0	1	1	*
Meeting not conducted well (poor explanation)	0	2	2	2%
Did not accomplish anything	0	2	2	2%
Nothing	33	45	78	67%
No reponse	2	1	3	3%

* Denotes less than 1 percent

Table 20

Perceptions of Quality of Service

	Respondent	Complainant	Total
Excellent	35%	39%	37%
Good	49%	52%	51%
Neutral	0	1%	1%
Poor	9%	8%	8%
No response	7%	0	3%
	100%	100%	100%
Number of Respondents	(45)	(67)	(112)
Reason Quality of Service Rated As "Poor":			
Mediators lacked understanding	0	1	1
Meeting conducted poorly	1	0	1
Mediators biased in favor of other party	1	1	2
No follow up after meeting	2	0	2
Mediators lacked authority to enforce agreement	0	1	1
Waste of time	0	1	1
No response	0	1	1
Number of Respondents	(4)	(5)	(9)

Participants were asked to rate the quality of service they had received from Mediation Services. The overwhelming majority rated the quality of service as either "good" (51%) or "excellent" (37%). Only 8 percent rated the service as "poor". A poor rating was attributed to a perceived bias in favor of the other party on the part of mediators, a lack of follow-up, a lack of understanding on the part of mediators, poorly conducted meeting, a lack of authority to enforce terms of agreement and that the process was a waste of time (Table 20).

As a summary measure of satisfaction, participants were asked if they would use Mediation Services again if they were ever in the same situation. Only 13 percent (14 of 112) of clients who were interviewed stated that they would not use this service again, and 81 percent (91 of 112) stated that they would use this service again (Table 21).

Table 21

Future Use of Mediation Services

"If you were ever in the same situation, would you use Mediation Services again?"

	Respondent	Complainant	Total
Yes	82% (37)	81% (54)	81% (91)
No	11% (5)	13% (9)	13% (14)
No response	7% (3)	6% (4)	6% (7)
	100% (45)	100% (67)	100% (112)

Table 22

Outcome of Mediation

	%
Agreement Reached	87%
Agreement Not Reached	13%
	100%
	(112)

Why an Agreement Could Not Be Reached	(#)
Respondent did not co-operate	(3)
Parties could not get along	(3)
Complainant asked for too much restitution	(1)
Neither party would begin	(1)
Mediators not aggressive/influential enough	(2)
Party moved away	(1)
Reached agreement informally	(1)
Respondent attended only to avoid charges (not sincere)	(1)
Respondent opted for court	(1)
No response	(1)
	(15)

Was Court Used As An Alternative to Mediation:

	(#)
Yes	(9)
No	(6)
	(15)

c. Outcome of Mediation:

Consistent with the file data reviewed in the previous section, 87 percent of clients interviewed indicated that they had reached an agreement through the mediation process. Those who were unable to reach an agreement attributed this to a variety of factors, the most common being the inability of the parties to get along and a lack of cooperation on the part of the respondent (Table 22).

An important measure of the success of Mediation Services in meeting their goals is client satisfaction with the mediated agreement. Of the 97 clients who indicated that they had reached an agreement, 92 percent stated that they were either extremely satisfied (41%) or satisfied (51%) with the agreement. Only 8 percent were dissatisfied or extremely dissatisfied with the agreement. The major explanations for dissatisfaction with the mediated agreement was a lack of compliance with the agreement and a lack of recourse with respect to broken agreements (Table 23).

A further measure of the success of mediation was whether the mediated agreement had improved the situation for the parties. Clients whose cases had resulted in a mediated agreement were asked whether their situation was better, worse or about the same as it was prior to mediation. Seventy-seven percent of these clients stated that their situation had improved, 12 percent indicated that it was about the same and 9 percent indicated that their situation was worse at the time of the interview than it had been prior to mediation (Table 24).

Similarly, clients were asked whether the problem they had mediated had disappeared or continued. Eighty-five percent of all clients who were interviewed indicated that the problem had disappeared. When asked in what way the problem had continued, non-compliance with the agreement was the most frequent response. As may be expected, compliance with the mediated agreement was extremely high among those clients who stated that the mediated problem had disappeared (94%).

Table 23

Satisfaction With Agreement

	Respondent	Complainant	Total
Extremely satisfied	41% (16)	41% (24)	41% (40)
Satisfied	56% (22)	47% (27)	51% (49)
Dissatisfied	3% (1)	7% (4)	5% (5)
Extremely dissatisfied	0	5% (3)	3% (3)
	100% (39)	100% (58)	100% (97)

Reasons for Dissatisfaction with Agreement

	(#)
Agreement not complied with	(3)
Respondent got off too easy	(1)
No recourse for broken agreement	(2)
Agreement was biased in favour of other party	(1)
No response	(1)
	(8)

Table 24

Situation After Mediation

Current Status of Situation

	Respondent	Complainant	Total
Better than it was before mediation	76%	78%	77%
Worse than it was before mediation	8%	10%	9%
About the same	13%	12%	12%
No response	3%	0	1%
	100% (39)	100% (58)	100% (97)

Has Problem Disappeared or Continued:

	Respondent	Complainant	Total
Disappeared	87%	83%	85%
Continued	13%	17%	15%
	100% (39)	100% (58)	100% (97)

Compliance with Agreement :

	Respondent	Complainant	Total
Yes	100%	90%	94%
No	0	10%	6%
	100% (34)	100% (48)	100% (82)

d. Diversion from the Courts:

One of the goals of Mediation Services is to divert cases from the criminal justice system. A rough indicator of the extent to which this is being accomplished was made by asking complainants the likelihood that they would have gone to court if mediation had not been offered as an alternative. Forty-three of the 67 complainants interviewed indicated that they likely would have gone to court (35 stated that they "very likely" would have gone to court and 8 stated that they "likely" would have gone to court). Only a small number of complainants (16) indicated that it was unlikely that they would have gone to court if mediation were not available, and 8 complainants did not answer the question (Table 25).

Table 25

Diversion From Court

Complainants perception of the likelihood that they would have gone to court if mediation had been unavailable.

	(#)
Very likely	35
Likely	8
Unlikely	9
Very unlikely	7
No response	8
	67

Table 26

Reasons for Not Participating in Mediation*

	Respondent	Complainant	Total #
Did not wish to see other party	0	5	5
Other party uncooperative	0	6	6
Prefer to go to court	0	7	7
No desire to use service	0	5	5
Advised against by lawyer	2	1	3
Wanted respondent punished, to receive a record	0	4	4
Advised against by magistrate	0	1	1
Case was too complicated/ not suitable for mediation	0	3	3
Was a personal family matter	0	1	1
Police pressed charges and pursued matter in court	0	1	1
Settled matter informally	0	1	1
No response	1	4	5
	3	39	42

*The total number of responses is greater than the total number of interviewees because some indicated more than one reason for not participating in mediation.

5. Non-Mediated Cases: Follow-Up

In order to obtain an understanding of why some complainants and respondents refuse to participate in mediation, and the outcome of those cases that are not mediated, telephone interviews were conducted with 28 complainants and 3 respondents who had refused to participate in mediation.

a) Reasons for Refusing to Participate in Mediation:

Non-participants who were interviewed indicated a variety of reasons for their refusal to participate in mediation. The most frequent reasons stated included: a preference to go to court (7), a lack of cooperation by the other party (6), the desire not to see the other party (5), no desire to use the service (5), the desire to see the respondent punished (4) and the belief that the case was too complicated or unsuitable for mediation (4). It is interesting to note that 2 of the 3 respondents interviewed who had refused to participate in mediation indicated that they had made their decision based on the advice of a lawyer (Table 26).

b) Alternative Means of Handling Dispute/Offense.

The Courts were the most common means of handling disputes/offenses with respect to the 31 cases surveyed where mediation had been refused. Nineteen of the 31 cases had ended up in the Courts. In 5 cases the charges had been dropped, 3 were resolved by way of an informal agreement and in a further 3 cases the respondent had moved away (Table 27).

Table 27

Use of Other Means of Handling Dispute/Offense

	Respondent (#)	Complainant (#)	Total (#)
Court	1	18	19
Dropped charges	1	4	5
Informal agreement	1	2	3
Respondent moved away	0	3	3
No response	0	1	1
	3	28	31

c) Future Expectations Regarding Use of Mediation Services:

Non-participants were asked to indicate whether they would use Mediation Services if they were ever in the same situation again. Thirteen of the 31 non-participants stated that they would use Mediation Services if ever in the same situation, 15 stated that they would not use Mediation Services and 3 did not respond (Table 28).

Table 28

Anticipated Use of Mediation in the Future

"If you were in the same situation, do you think you would use MediationServices or not?"

	Respondent (#)	Complainant (#)	Total (#)
Would use Mediation Services	0	13	13
Would not use Mediation Services	3	12	15
No response	0	3	3
	3	28	31

VII Perceptions of Staff and Volunteer Mediators

1. Introduction:

This section presents the findings from information collected from the staff of Mediation Services and volunteer mediators. The information was collected by way of personal interviews with 3 member of the Advisory Committee, 5 staff members and 4 volunteer mediators.

2. Assessment of Training Process:

Volunteer mediators were generally satisfied with the training they received. They did suggest, however, that the training process could be improved and they stressed the need for upgrading on a regular basis.

Suggestions for improving the training process centered on making trainees knowledgeable about other programs and techniques used in other programs, and bringing in instructors from other mediation programs. Volunteers expressed a strong desire to be as qualified as they could possibly be and it was felt that the training process could be strengthened by integrating components from other mediation training programs.

With respect to the upgrading of mediators' skills, suggestions included a process for sharing experiences and ideas, refresher courses, and an increase in the use of videotapes of mediation sessions. One respondent suggested that Mediation Services should make more efforts to motivate volunteers to expand and improve their skills.

3. Other Suggested Changes to Mediation Services:

When asked what changes or new directions they would recommend for Mediation Services, members of the Advisory Committee who were interviewed mentioned community dispute centres and continuity of staffing.

The Advisory Committee indicated that they would like to see mediation happening closer to the place where the problems occur and being initiated at an earlier point in the conflict. Community Dispute Centres are perceived as being the most effective means of achieving these goals.

The Advisory Committee is particularly concerned with continuity of staffing. It is felt that this can be addressed by providing "a well qualified person a decent salary so she or he would stay over an extended period of time".

Increased efficiency and communication were the major suggestions made by the staff of Mediation Services. It was indicated that efficiency would be greatly enhanced by the implementation of a computer system in order to improve case follow-up. With respect to communication, staff indicated that there was a need for more communication with other social service agencies.

VIII Perceptions of Referral Sources

1. Introduction:

A total of 12 personal interviews were conducted with representatives of organizations and agencies that make referrals to Mediation Services. These interviews included 3 Winnipeg Police Officers, 4 Crown Attorneys, 3 Defense Counsel and 2 Judges.

2. Perceived Benefits of Mediation and Areas of Concern:

Mediation was considered to be of benefit to society in general and to the victim and the accused. The greatest benefits to society were believed to be: a greater sense of justice and allowing the relationships of people known to one another to continue. The benefits to the Criminal Justice System were perceived to be in the form of cost savings and the removal of cases from the Courts that are inappropriate for the Criminal Justice System.

The benefits mediation offers victims and accused were stated as follows: it provided the victim the opportunity to feel that "justice has been done", it allows the accused to become aware of the impact his or her actions had on the victim, and it allows for the resolution of conflict without the accused incurring a criminal record.

In addition, the police officers who were interviewed indicated that mediation serves to increase morale in the Police Department. They stated that they felt better about their role in the Criminal Justice System when they could see a successfully mediated case.

When asked about the disadvantages of mediation, some respondents indicated that there were not any disadvantages if the proper safeguards were in place, while others, specifically defense counsel, were concerned about

confidentiality. This centered around the question of disclosure in cases where a statement had not been made to the police.

3. Suggested Changes to Mediation Services:

All Crown Attorneys, Police Officers and Defense Counsel interviewed indicated that they would like to see Mediation Services handle cases involving family disputes. Neighborhood disputes, shoplifting, false pretenses, and petty shoplifting were also mentioned by defense counsel and police officers as charges that should be considered for mediation. Defense counsel also suggested that more "post-plea" cases should be mediated

It was generally perceived that Mediation Services should make an effort to increase the level of awareness of the program. Crown attorneys at the Public Safety Building expressed a desire for more information about the program, and they suggested the development of a system for providing new crown attorneys with information about the program. The Crown Attorneys at Youth Court suggested that Mediation Services make a presentation to all Crown Attorneys at that Court.

Judges and Defense Counsel indicated that they lacked information about Mediation Services. Judges suggested that Mediation Services provide them with literature on how they could use the service when it was considered appropriate, and how the referral process operates. Other suggestions as to how Mediation Services could provide information on the program included:

- A presentation to The Manitoba Bar Association, Criminal Law Subsection and inserts in the Association's mailings.
- The Isaac Pitblado lectures at the University of Manitoba
- Articles and notices in "Headnotes and Footnotes"
- Communication with the Manitoba Trial Lawyers Association
- Presentations at Legal Aid staff meetings.

IX Financial Information

The cost-benefit of operating a social program is always of interest, however, extremely difficult to measure. In the case of Mediation Services, it is of interest to the provincial government to know whether this program provides cost savings to the court system and whether it is cost-competitive. Ideally these questions would be answered by comparing unit costs for comparable types of cases for the courts and Mediation Services. Unfortunately such comparisons will not be possible within the scope of this evaluation.

It is also important to keep in mind that Mediation Services does not exist solely to provide a more cost efficient alternative to the courts. The goals of the program are to provide a more effective, humane and accessible means of resolving certain types of disputes. The unit cost of the program does not reflect the potential human benefits of mediation.

For purposes of this evaluation the operational costs of Mediation Services and sources of income are presented (Table 29).

(A copy of the funding proposal from Mediation Services to the Department of the Attorney General can be found in Appendix F).

Table 29

Mediation Services Budgets 1983 to 1987

	1983-84	1984-85	1985-86	1986-87
Receipts:				
Province of Manitoba[1]	-	5,827	15,628	1,980
Government of Canada	-	5,908	-	-
Private Donations	-	385	1,050	950
Fees & Registrations	-	-	-	1,451
MCC Manitoba	32,900	41,791	60,655	76,000
	32,900	53,911	77,333	80,381
Disbursements:				
Drama Group (reimbursed)	(1,541)	-	-	-
Library Expenses	404	225	213	400
Office & Sundry	2,358	6,078	4,282	4,500
Rent	1,934	1,776	2,544	7,500
Secretarial Services	1,994	576	388	-
Salaries	22,188	33,824	46,243	41,324
Benefits	2,144	2,370	3,244	4,257
Travel	2,028	1,203	1,659	2,000
M.C.C. Volunteer Expenses	369	5,972	10,255	11,000
International Youth Year	-	533	2,266	-
Bank Charges	-	-	155	200
Equipment Rentals	-	-	2,446	2,000
Seminars & Meetings	1,030	1,354	2,024	2,000
Telephone	-	-	1,614	5,200
	32,900	53,911	77,333	80,381

[1]These funds were received from "Career Start" and "Jobs Fund".

X Issues for Consideration

The concept of mediation is slowly gaining credibility within the justice system and is increasingly being recognized as a viable alternative dispute resolution process. The province of Manitoba has demonstrated a commitment to mediation through The Justice For Victims of Crime Act (proclaimed on January 1, 1987) which states:

> 5(1) Where appropriate, victims should be encouraged to participate in mediation, conciliation and informal reconciliation procedures to resolve disputes and determine financial or other redress.

Overall, it can be concluded that Mediation Services is providing a needed service in an effective manner. Those complainants and respondents who chose to participate in mediation rated the quality of service quite high and the success rate, measured in terms of the proportion of mediated cases that result in an agreement that is complied with, is also substantial.

The issues that will be discussed in the remainder of this section are targetted at improving the effectiveness of the program.

- There is a need to increase the level of awareness and knowledge of Mediation Services among key actors in the justice system such as judges, crown attorneys and defense counsel as well as among the general public. This could be accomplished by verbal presentations and by distributing literature.

- Current attempts to recruit volunteer mediators with varied backgrounds which reflect the socio-demographic composition of those requesting mediation services should be continued.

- Consideration should be given to providing refresher courses to volunteer mediators on a regular basis. Mediators also expressed an interest in learning new techniques and being made aware of developments in the area of mediation. This could be accomplished by encouraging participation in training programs in other areas and by bringing in mediation "experts" to enhance the current training program.

- Mediation Services should place increased emphasis on case follow-up. Follow-up should be carried through with complainants and respondents to determine if all terms of the agreements have been met on a longer-term basis than is the current practice.

APPENDIX A

FILE DATA COLLECTION INSTRUMENT

Mediation Services - File Data Collection Instrument

File Number _____

1. Type of Case - Community Mediation.....1
Diversion.....2
Post Plea.....3

2. Date Case Opened - __ __/ __ __/ __ __ - (mth code 1-12 / year code 84or 85)
Day Mth Yr

3. Date Case Closed - __ __/ __ __/ __ __ Length of time (days) __ __ __
Day Mth Yr

4. Referral Source -

Self.....	1	Magistrate.....	5
Police.....	2	Alt. Sent Plan.	6
Crown.....	3	A & O Centre..	7
Defense.....	4		

Other (specify) _____

5. Relationship Between Parties -

Married.....	1	Room-mates.....	8
Divorced/Separated.....	2	Landlord/Tenant.....	9
Common-Law.....	3	Business Associates..	10
Boyfriend/Girlfriend.....	4	Employer/Employee...	11
Family.....	5	Fellow Employees.....	12
Friends/Acquaintances.	6		
Neighbors.....	7		

Other (specify) _____

6. Nature of Dispute - **(check all that apply)**

Assault.....	1	False Pretenses.....	10
ACBH.....	2	Robbery.....	11
Assault with Weapon..	3	Harassment.....	12
Aggravated Assault....	4	PWDPP.....	13
Utter Threats.....	5	Noise.....	14
Break & Enter.....	6	Landlord & Tenant Act..	15
Theft Under.....	7	Trespassing.....	16
Theft Over.....	8	Willful Damage.....	17
Mischief.....	9		

Other (specify) _____

7. Number of Mediation Sessions -

__ __

None/Not applicable.... 98
Unknown..... 99

8. Number of Participants in Mediation -

— —

None/Not applicable.... 98
Unknown..... 99

9. Outcome -

Mediated - agreement reached..... 1
Mediated - agreement not reached..... 2
Not mediated - respondent (accused) refused... 3
Not mediated - complainant (victim) refused..... 4
Referred elsewhere..... 5
Complainant decided not to pursue..... 6

Other (specify) - _____
Not applicable (no agreement)..... 98
Unknown..... 99

10. Nature of Agreement - **(Check all that apply)**

Establishing cooperative relationship..... 1
Agreement to drop charges..... 2
Disengaging/Limiting interaction..... 3
Transfer of money (restitution)..... 4
Rendering Services/Making repairs for complainant..... 5
Community Service Work..... 6

Other (specify)_____
Not applicable (no agreement)..... 98
Unknown..... 99

11. Follow Up Information -

Agreement complied with..... 1
Agreement broken by complainant..... 2
Agreement broken by respondent..... 3

Other (specify)_____
Not applicable (no agreement)..... 98
Unknown..... 99

12. Respondent(s) (accused) -

	Age	Gender
(0= NA)	— — DK..99	Male..1 Female..2 DK..3
	— — DK..99	Male..1 Female..2 DK..3
	— — DK..99	Male..1 Female..2 DK..3
	— — DK..99	Male..1 Female..2 DK..3

13. Complainant(s) (victims) -

	Age	Gender
(0=NA)	__ __ DK..99	Male..1 Female..2 DK..3
	__ __ DK..99	Male..1 Female..2 DK..3
	__ __ DK..99	Male..1 Female..2 Dk..3
	__ __ DK..99	Male..1 Female..2 DK..3

APPENDIX B

LETTER TO POTENTIAL INTERVIEWEES

Mediation Services

202-818 Portage Avenue
Winnipeg, Manitoba
R3G 0N4

Phone 774-2469

Providing a constructive way of dealing with conflict in our communities

May 12, 1986

Dear :

The Department of the Attorney-General is currently conducting a major evaluation of Mediation Services. Part of this evaluation involves speaking to people, like yourself, who have had some kind of contact with our program. Whether you actually participated in mediation or not, the evaluators are interested in your opinions of our service and the reason you agreed or disagreed to participate. The interview, which will be conducted by telephone, will only take 5 or 10 minutes and your opinions and answers to questions will be kept confidential.

If you do not wish to speak to the evaluators, please call us. Unless we hear from you shortly we will give them permission to contact you by phone to hear your opinions on our service.

I would like to encourage you to participate in this survey. It is important for us to know your opinion of our program and we would appreciate your assistance in this matter.

Ray Friesen
Director

RF/gdw
(1077f)

Mennonite Central Committee (Man.)

APPENDIX C

QUESTIONNAIRES FOR PARTICIPANTS AND NON-PARTICIPANTS

Mediation Services Questionnaire - **Mediated Cases**

Type of Case: Community Mediation..1
Diversion.....2
Post Plea.....3

Interview with: Respondent (accused).1
Complainant (victim).....2

Nature of Dispute - _____

Relationship Between Parties - _____

.....

Hello. I'm calling on behalf of the Research & Planning Branch of the Department of the Attorney General. I believe you received a letter a short while ago from Mediation Services informing you that we are conducting an evaluation of Mediation Services. Part of this evaluation involves talking to people like yourself who have actually participated in mediation. If you have a few minutes I would like to ask you just a few questions about your experience with Mediation Services. I would like to assure you that everything you tell me will be kept strictly confidential.

1. First, when you were informed that you could go to Mediation Services to settle your dispute, what was the major reason you decided to participate?

_____

_____

2. What, if anything, did you like most about Mediation Services?

_____

_____

3. What, if anything, did you dislike about Mediation Services?

_____

_____

4. What is your opinion of the quality of service provided by the mediator who handled you case?

Would you rate the quality of this service as excellent, good, poor or very poor?

Excellent.....	1	
Good.....	2	
Poor.....	3	
Very Poor.....	4	Ask Q. 4a
DK/NS.....	5	

4a. Why is that?

_____

_____

5. Did you reach an agreement through mediation?

Yes...1 Skip to Q. 6
No.....2 Ask Q. 5a

5a. Why could you not reach an agreement?

_____ Thank &

_____ Terminate

6. How satisfied are you with this agreement? Would you say you are extremely satisfied, satisfied, dissatisfied or extremely dissatisfied?

Extremely Satisfied..... 1
Satisfied..... 2 Skip to Q. 7
Dissatisfied..... 3
Extremely Dissatisfied..... 4 Ask Q. 6a
Dk/NS..... 5

6a. Why are you dissatisfied with this agreement?

_____

_____

7. What affect on you personally did the mediation of this dispute have?

Benefits:_____

_____

Disadvantages:_____

_____

8. Finally, if you were ever in the same situation again, would you use Mediation Services?

Yes..... 1
No..... 2
DK/NS. 3

Thank you very much for taking the time to answer these questions.

Mediation Services - **Non-Mediated Cases**

Type of Case:
Community Mediation..... 1
Diversion..... 2
Post Plea..... 3

Interview with:
Respondent (accused)..... 1
Complainant (victim)..... 2

Nature of Dispute: _____

Relationship Between Parties: _____

****

Hello. I'm calling on behalf of the Research & Planning Branch of the Department of the Attorney General. I believe you have received a letter from Mediation Services informing you that we are conducting an evaluation of their services. An important part of this evaluation involves talking to people like yourself who decided not to have their dispute settled through mediation. If you have 5 minutes to spare I would like to ask you just a few quick questions. I assure you that everything you tell me will be kept strictly confidential.

1. First, when you were informed that you could have your dispute settled through mediation, what was the reason you decided not to participate?

_____

_____

2. Did your case go to court?

Yes..... 1
No..... 2 Ask Q. 2a

2a. Was your dispute settled some other way?

_____

_____

3. Finally, if you were ever in the same situation again, do you think you would use Mediation Services or not?

Would use Mediation Services..... 1
Would not use Mediation Services..... 2

Thank you very much for taking the time to answer these questions!

APPENDIX D

LIST OF MEDIATION PROGRAMS IN CANADA

The following list of mediation programs is drawn from the "Directory of Canadian Dispute Resolution Programs" published by the Network for Community Justice and Conflict Resolution. All of these programs utilize mediation techniques for resolving disputes within the context of the criminal or youth justice systems. For additional information about these programs, the full Directory can be obtained by contacting:

Dean Peachey
Network for Community Justice and Confict Resolution
298 Frederick Street
Kitchener, Ont.
N2H 2N5
(519) 744-6549

Alternative Measures
#201-9917-101 Avenue
Grande Prairie, Alta
(403) 532-0373

Description: V.O.R.P.; Community Supervision,ie. probation and community service orders.

Alternative Measures Program
P.O. Box 1473 N
Halifax, N.S.
(902) 424-5473

Description: Pursuant to Section 4 of the Young Offenders Act - victim/offender mediation.

Central Nfld. Youth Focus Diversion
8 Church Road
P.O. Box 868
Grand Falls, Nfld.
A2A 2P7
(709) 489-6600

Description: Youth diversion provides an alternative to the court system for young offenders (12 - 17 years old) who commit minor offences.

Community Diversion Centre
202 - 1800 Blanchard Street
Victoria, B.C.
V8T 4J1
(604) 383-7143

Description: Provides mediation as an alternative form of conflict resolution for North End residents in conflict. Engaged in identifying and empowering the "natural peacemakers" in the North End.

Community Mediation Council
94 Douglas Shand
Pte. Claire, Qué
H9R 2A8
(514) 694-3671

Description: A panel of citizens who meet regularly with youth who have committed infractions under the YOA and/or committed unofficial offenses within thier communties - recommends how to make restitution to community.

Community Oriented Sentencing Program
85 Bridge St. E.
St. Thomas Parish House
Belleville, Ont.
K8N 1L9
(613) 966-7410

Description: V.O.R.P., C.S.O., restitution programs for anyone over 12 years of age. All referrals come from court.

Conciliation
B.P. 95
Gatineau, Qué
J8T 4Y8
(819) 770-7711

Description: The project operates in the alternative measures framework to bring together the young offender and the victim.

Entente Program
94 Douglas Shand
Pte. Claire, Qué
H9R 2A8
(514) 794-3671

Description: Entente is a mediation program for young offenders (12 -18 years old). Trained volunteer mediators regulate disputes between victims and offenders.

Mediation Diversion
Indian Metis Friendship Centre
Box 2197, 1409-1st Ave. E.
Prince Albert, Sask.
S6V 6Z1
(306) 764-3431

Description: Pre-trial, young offenders - only "criminal cases", first offenders. Program is set up for pre-charge too, but no clients as yet.

Mediation Diversion - Youth
72 High St. E.
Moose Jaw, Sask.
S6H 0B8
(306) 693-0777

Description: Alternative measures Young Offenders Act - victim/offender mediation

Mediation Services
202-818 Portage Ave.
Winnipeg, Man.
R3G 0N4
(204) 774-2469

Description: Receive referrals of post-charge, pre-plea criminal court matters. A community mediation service is also available for neighbourhood, family disputes and the young offender.

Regina Youth Mediation Program
2228 Osler St.
Regina, Sask.
S4P 1W8
(306) 757-6657

Description: Victim/young offender conflict resolution, under Section 4, YOA. Provincial alternative measures programming contracted to non-profit local community agencies by Department of Social Services.

Saskatoon Mediation Services
245 3rd Avenue South
Saskatoon, Sask.
S7K 1M4
(306) 244-0440

Description: The project provides a pre-trial mediation/diversion programme for adults. The judicial system makes referrals.

St. John's Youth Diversion Program
P.O. Box 7392
West End P.O.
St. John's, Nfld.
A1E 3Y5
(709) 753-2212

Description: Provides pre-trial diversion for youths implicated in specified minor offences, and as first offenders. Major component is victim-offender reconciliation through volunteer mediators. Education is also a major focus.
Victim Offender Reconciliation Program
340-9th Street

Brandon, Man.
R7A 6C2
(204) 728-7000 Ext. 244

Description: A program for youth and adult offenders to meet with victims to collectively share experiences and arrive at a mutual agreement.

Victim Offender Reconciliation Program
298 Frederick Street
Kitchener, Ont.
N2H 2N5
(519) 744-6549

Description: Brings victim and offender together face-to-face to effect reconciliation and mutual understanding - facilitates the reaching of agreement between victim and offender regarding restitution.

Victim Offender Reconciliation Program
223 Aylmer St. N.
Suite #02
Peterborough, Ont.
K9J 3K3
(705) 743-2661

Description: The program is designed to give the opportunity for the victim and offender to resolve their conflicts.

Victim Offender Reconciliation Program
1648 Bayly Street
Pickering, Ont.
L1W 1L9
(416) 427-8522

Description: Mediation between victims and offenders in conflict due to crime.

Victim Offender Reconciliation Program
208 Pine Street
Sudbury, Ont.
(705) 673-9576

Description: A voluntary prevention/diversion program for first offenders, aged 12 to 17. Involves the youth performing a certain number of hours of volunteer work for either the victim or community to take responsibility for their actions.

Victim Offender Reconciliation Program
516 Victoria Ave., #4

Thunder Bay, Ont.
P7C 1A7
(807) 623-5355

Description: A program whereby a victim and an offender meet face to face to negotiate restitution/reconciliation.

Victim/Young Offender Program
#200, 1010 - 1st Street S.W.
Calgary, Alta.
T2R IK4
(403) 266-4566

Description: Reconciliation program (V.Y.O.R.P.) - an alternative measures program for first-time offenders who are between the ages of 12 and 18 and have committed less serious property offences.

Youth Mediation Diversion
Box 240
Fort Qu'Appelle, Sask.
S0G 1S0
(306) 332-5618 or 332-5616

Description: Victim/offender conflict resolution for youths charged primarily with property offences.

Youth Mediation/Diversion
299-245 3rd Ave. South
Saskatoon, Sask.
S7K 1M4
(306) 244-8347

Description: none provided

APPENDIX E

SAMPLE MEDIATION AGREEMENT

File No. 85D14

AGREEMENT

THIS AGREEMENT, entered into this 30th day of February, 19 85 in the city of Winnipeg, the province of Manitoba

BETWEEN:

SAMPLE

Name: John Doe

Address: 957 Lipton Street

- and -

Name: Jane Dick

Address: 429 Knowlton Cres.

WITNESSES that, in consideration of the mutual covenants herein contained, the parties agree as follows:

John and Jane regret the incident of December 28, 1984 and wish to leave it in the past.

John agrees to reimburse Jane $174.00. This sum includes $75.00 to replace the window which was broken as well as $99.00 for lost wages.

This agreement is final settlement for all claims which have arisen or may arise out of the incident of December 28, 1984 and the parties agree not to proceed further with this matter.

The parties have discussed the incident of December 28, 1984 and have reached a fuller understanding as to the circumstances surrounding the event. The parties hold no hard feelings as a result of the incident.

Jane feel this resolves the matter and sees no need for the crown attorney to proceed with charges against John.

The parties agree that in the event they have future difficulties with this agreement or with one another, they will contact MEDIATION SERVICES, 202-818 Portage Avenue, Winnipeg, Manitoba, 774-2469, before taking any other steps to enforce their rights under this agreement, or under any statute.

SIGNATURE: WITNESS:

John Doe) Mediator

Jane Dick) Mediator

APPENDIX F

FUNDING PROPOSAL

Funding Proposal to the

Attorney-General of Manitoba

1. Background

Since its beginning in 1979, Mediation Services has been funded primarily by Mennonite Central Committe (Manitoba). It is one of four programs operated by MCC (Man.) in the criminal justice area. The other three are Alternative Sentence Planning; El'dad Ranch, a farm setting for borderline mentally handicapped persons in conflict with the law; and Open Circle, a volunteer visitor program at Stony Mountain Penitentiary.

MCC is primarily a relief and development agency working in Third World countries. It's main source of funds is voluntary donations that come from the Mennonite churches of Manitoba. Eighty percent of those funds are sent on for overseas work. The other 20 percent are spent on Administration and provincial programs. This includes helping other agencies with staff and initiating programs that are needed but not available. On these MCC is prepared to take a risk and spend money to show the credibility and practicality of such programs. A particular area of concerns is criminal justice and corrections - promoting and providng alternatives to and changes within the system, changes that will address the needs of people and bring healing and peace to our communities.

Mediation Services was operated by MCC for several years although there was very little response from the criminal justice system. As a result the program was available when the police department and the Attorney-General's department were ready to begin criminal court diversion. MCC continued to show its commitment by increasing its funding commitment from $24,675 in 1982 to $41,791 in 1985.

Over the past several years Mediation Services has also sponsored several summer programs that employed students and were funded by government. In 1981 Victim Support Services was started with Mediation Services sponsorship. After the summer it was continued with a new sponsor and now has developed into Victim Witness Assistance at 373 Broadway and Victim Services within the Winnipeg Police Department.

In 1982 a summer project began work on the idea of a community dispute centre. This was picked up by another project sponsored by Mediation Services and funded by a summer employment grant in 1984. It has developed into the Community Dispute Centre, Inc. with a community board, a full-time staff person and funding from Core Area Initiatives.

In 1985, with a Careerstart grant Mediation Services was able to hire a person to research the possibilities of doing Young Offender mediation. Negotiations are currently underway with Community Services and Corrections to implement a program.

The summer grants, all of them federal grants, except for a one-person grant this past summer, have also made it possible to deal with the rush of cases that came during the summers, particularly in 1984 and 1985.

Mediation Services currently has the equivalent of five full-time staff people. Two of them are funded, at $4.80 per hour, by the Manitoba Jobs Fund. The others, two full-time and two half-time, are funded by MCC (Man.) It is only because three of the four are on a Voluntary Service program that we are able to keep our costs down and have been able to continue. Because of the Voluntary Service system our staff costs for these four are $39,227 intead of $66,250. The rest of the program costs approximately $19,400 are paid for from the MCC (Man.) General Fund.

2. Program

a) Process

Mediation Services works in three ares.

i) Criminal court diversion - This is certainly the most significant area in terms of case work and success. Referrals can be made by anyone. Fifty-five percent are made by Mediation Services staff. One staff person attends at the Public Safety Building daily to peruse police reports and select cases appropriate for mediation. These are submitted to the Winnipeg Police Department and the crown attorney's office for approval. Upon approval, the complainant is contacted by a caseworker and the process and its benefits are explained. If the complainant agrees to mediation, the accused is contacted and a session is scheduled and mediators are assigned. After the session, a report is sent to the crown attorney and the situation is monitored to assure completion of the agreement. Upon completion a stay of proceedings is recommended.

ii) Postplea mediation - This involves those cases where the police and/or crown attorney insist on a guilty plea and sentence by judge along with mediation. Although the benefits of a session can be significant, especially for the complainant/victim, few accused persons are willing to participate at this stage.

iii) Community disputes - Anyone from the community can request the involvement of Mediation Services to assist in resolving a dispute. Most of the cases dealt with by Mediation Services are referred because charges have been laid in Private Prosecutions courts.

b) Benefits (for a more detailed discussion see the attached paper)

i) Mediation diverts matters from a system facing a significant back log.

ii) Mediation deals with matters in a way that responds to the hurts, broken relationships and damaged emotions that result from incidents.

iii) Mediation deals with the needs and concerns of the victims and allows their direct involvement in resolving matters.

iv) Mediation holds accused persons responsible directly to the ones they have hurt and often in more significant ways than the courts do.

v) Mediation takes criminal activity seriously enough to see it for what it really is - something that happens between people and that needs a response that takes people seriously.

vi) Mediation includes the involvment of the community in dealing with matters.

vii) Mediation takes the time needed to deal adequately with matters.

c) Personnel

i) Director (full-time)
- overall responsibility for the project
- exploring new areas of involvement and setting of direction for the project
- liason with police, crown attorneys and courts - includes daily attendance at the Public Safety Building to read police reports, select cases, solicit approval, request remands and report on outcome of mediation process
- public education and awareness
- training of mediators
- serve on board of Community Dispute Centre, Inc.
- casework and mediation on occassional cases.

ii) Volunteer Coordinator (half-time)
- assign mediators to cases
- follow-up with volunteers regarding problem area, required help, etc.
- plan in-services training events for volunteers
- some case-work and mediation when needed.

iii) Caseworker (#1) (full-time)
- responsible for all casework, assigning casework
- do casework
- write mediation reports
- mediate
- assist with planning and brochure design for specific events
- police and crown attorney liason in absence of director.

iv) Caseworker (#2) (full-time)
- casework, ie., contacting complainants and accused, setting up mediation sessions, doing follow-up on cases; mediate cases

v) Program developer (full-time)
- develope a Young Offender mediation program
- do case work in cases where the complainant and/or accused are young people.

vi) Secretary-receptionist (half-time)
The services of a secretary/receptionist are shared with several organization with whom we share office space. As a result, she is here full-time but works about half-time for us.

vii) Volunteers
Mediation Services has 30-35 trained volunteers from the community. They do a large percentage of the actual mediating. These volunteers take 18-20 hours of classroom training and then begin mediating with experienced mediators.

d) Statistics (please see Appendix B of attached paper for more detailed staticstics)

	1984 (Jan-Dec) (12 mo.)	1985 (Jan-Sept) (9 mo.)
(i) Community Mediation	114	87
(ii) Post Plea Mediation	24	106
(iii) Diversion	239	291
Mediated - 144 (61%)		- 150 (57%)
Agreement - 131 (91%)		- 139 (93%)
iv) TOTAL	377	484

If the 1985 number is compared to the first nine months of 1984 (291) we have a 66% increase in total number of cases received. In diversion the increase is from 194 to 291, or 50%.

e) Budget

i) October 1, 1984 to September 30, 1985

Expenditures

Program costs (includes rent, telephone, supplies, training, travel, etc.)	$ 11,762
Personnel	66,458
	$ 78,220

Receipts

Government of Canada	$ 5,890
Province of Manitoba	
Careerstart	2,862
Jobs Fund	1,690
MCC Voluntary Service	25,977
MCC General Fund	41,791

ii) October 1, 1985 to March 31, 1986

Expenditures

Program costs	$ 7,270
Personnel	42,000

Income

MCC Voluntary Service	14,045
MCC General Fund	19,080
Jobs Fund	6,745
Attorney General of Manitoba	2,130

iii) April 1, 1986 to March 31, 1987

Expenditures

Program Costs	$ 14,540
Personnel (3 full-time, 2 half-time)	89,160
TOTAL	$103,700

Income

MCC Voluntary Service	$ 28,875
MCC General Fund	37,412.50
Attorney General of Manitoba	37,412.50
	$103,700

In Summary, we are asking for the following:

1) temporary funding assistance for January to March, 1986 of $2,130.00
2) assistance for the fiscal year April 1, 1986 to March 31, 1987 in the amount of $37,412.50.

3. Why the Attorney-General should give funding assistance?

a) The work done by Mediation Services relates directly to the criminal justice system and diverts matters from that system.

b) Giving assistance to Mediation Services would be consistent with the emphasis on victims that is currently part of the Attorney-General agenda.

c) Providing assistance to Mediation Services would be an active working together with a non-government agency in a way that draws on the commitment, and expertise of both government and the agency.

d) Mennonite Central Committee has spent the money needed to take risks and develope the program. The government can now give money to a proven and credible program.

e) Without funding assistance Mediation Services will have to cut back significantly in its work load.

The Mediation Process

An Over-View

I. Introduction

Explain procedure and role of mediators.
Establish ground rule.

II. Story-telling

Each party explains situation from their viewpoint (followed by mediator summary).
Each party then states their "special concerns"/goals for resolution.

III. Problem-Solving

List problems/issues for discussion.
Special efforts to reduce hostility and encourage reconciliation often necessary.

- caucus (separate session with each party) to explore options for settlement confidentially.
- direct discussion of feelings.
- spiritual ministry.
- encourage parties to state commitment to reconciliation.

Begin with easiest issue and examine options for resolution.

- parties encouraged to generate options jointly.
- caucus often necessary.
- mediators at all times encouraging "What if ..." thinking.
- emphasis on interests, not positions.
- main focus: What can we agree on today that will allow us to live in peace tomorrow?" (Not who was right or wrong yesterday?)

IV. Agreement

Worked out specifically - Who does what, when, where?
Balanced and non-judgemental.
Written out and signed, with copies to both.
Opportunity for complete reconciliation once practical issues are resolved - repentance/celebration.

THE INTRODUCTION STAGE

Before Parties Arrive

1. Check signals with co-mediator
   a) Who (if anyone) will take lead role
   b) How you will divide tasks - Introduction, Story-telling, Problem-Solving
   c) Anticipate any special difficulties in this mediation situation
   d) Personal mediation styles
   e) Cues during mediation. If necessary, offer verbal clues: "John, would you pick it up from here." Or, "John, could I bring up something here?"

2. Check environment
   a) As comfortable and informal as possible
   b) Seating arrangements
   c) A place for private meetings
   d) Coffee, bathroom, and smoking arrangements

Opening Statement

1. Welcome and introductions

2. Purpose

3. How we will procede
   a) Each person will describe situation from their perspective
   b) Agree on what the basic issues of disagreement are
   c) Examine possible solutions

4. Mediator's role
   - Not to decide right and wrong
   - To help parties find their own solution
   - will summarize, ask questions of clarification

5. Confidentiality and note-taking

6. Taking a break and caucus
   a) Parties can ask to take a break any time
   b) Mediators sometimes take a break and meet separately with each party

7. Ground rules
   a) Mediators ask that parties promise not to interrupt when other party speaks
   b) CAN PARTIES AGREE TO THIS?
   c) Do parties wish to add any?

THE STORY-TELLING STAGE

1. Each party explains the situation from their perspective while other party listens.

2. Mediators summarize, briefly and empathetically as each party finishes.

3. Would either party like to comment on anything new they learned?

Skills

- Listen as empathetically as you can. Paraphrase frequently unless this seems annoying.
- Avoid questions as much as you can. When you need more information, state this and request information. e.g.: "I don't understand fully who Mrs. Jones is. Could you tell me more about her." (Rather than the interrogating question, "Who is Mrs. Jones?") Or "I didn't follow you on regards to . . . Would you explain that a little more, " Or, "Would you explain your thinking a little more in regards to . . . " (Rather than "Why did you do that?")
- Save requests for more information till the speaker has finished the story if possible, so as to avoid disrupting his/her train of thought.
- Be firm about not letting people interrupt each other in this stage. If they feel they must respond to "lies", give them pen and paper to make notes and assure them you wish to hear from them later.
- Dealing with barbed comments
  a) Be prepared to say to other party "John, I know you have a different perspective on this and I want to hear your view as well in a few minutes."
  b) "Launder" barbed statements with neutral paraphrase. (If party says "Then she comes running and hollering all these lies at my kids and making a complete fool out of herself," mediator might say, "So you're upset because she was saying things that from your perspective were untrue.")
  c) Ask party to give specific example. (If party says, "He's inconsiderate and totally irresponsible," mediators might say, "Could you give us some specific examples?"

LISTENING SKILLS FOR MEDIATORS

by Ron Kraybill

Goals

1. Create a supportive environment that helps people relax and focus on issues.

2. To develop rapport and trust with both parties.

3. To convey empathy and respect for each person, regardless of their beliefs, words or conduct.

4. To be able to summarize concisely the essence of each party's view.

5. To be able to state clearly the basic problems that need to be resolved in terms of problems and issues, not personalities.

Four Ways to Listen Effectively

1. Use your body to say "I'm listening."

   --frequent eye contact
   --nodding the head
   --body oriented toward the speaker (head, arms, legs)
   --say "yeah", "uh hunh", "I see", etc.

2. Use "echo responses", repeating a word or phrase spoken by the speaker. This unobtrusively focuses the attention of the speaker on things which may be unclear to you. Echo responses allow you to direct the flow of conversation without major interuptions.

3. "Paraphrase" or restate what the speaker has said in your own words. This is a crucial skill that requires practice.

   a) Focus on the speaker. "YOU. . ."

   b) Include both facts and feelings. Body language and tone of voice will clue you to feelings.

   c) A paraphrase contains no hint of judgement or evaluation, but describes sympathetically.
      --"So you believe very strongly that. . . ."
      --"The way you see it then. . . ."
      --"You were very unhappy when he. . . ."
      --"You felt quite angry with your neighbor in that situation. . . ."
      --"If I'm understanding you correctly, you. . . ."

4. Summarize the basic viewpoints of the speaker as you've heard them. A summary is an extended restatement of the key points of information offered by the speaker. Use summary to focus each party's statement in terms of issues and solvable problems, instead of personalities. In the final summary, obtain the agreement of the speaker that you have summarized both accurately and completely.

SHIFTING TOWARDS PROBLEM-SOLVING
(How to encourage cooperation and create a will to settle)

1.. Note and emphasize commonalities that may have appeared in the "stories."

2. Point out implied commonalities that are not obvious. "I'd like to note that:
   - both of you are eager to work at settlement here today.
   - both of you wish to avoid a court battle.
   - both of you have made it clear you're weary of the hassle and just want to resolve this.
   - both of you have said you feel the issues are resolveable and that you're willing to be flexible in working things out.
   - both of you have said you'd like to maintain your relationship if we can resolve these issues.

   Nourish a cooperate spirit by emphasizing commonalities as often as possible (and especially as you enter the "Problem-Solving Stage").

3. Get the parties thinking about what it would be like if an agreement were reached. (This works especially well in caucus.)
   - "What are the advantages for you, Mr. Jones, if we could get this situation totally resolved?"
   - "What is in it for you personally if we can work this out?"

4. Ask each party to say what they are willing to do to resolve this (again, sometimes much more effective in caucus.)

5. Get the parties thinking/speaking about positive things.
   - Maybe you can get them to agree on positive aspects of their relationship up to now.
   - Maybe you can get them to agree that they now understand why the other person acted the way they did.
   - Maybe you can get them to agree that they now have a clearer understanding of the other's position or the issues that need to be resolved.

6. Use the "indirect/direct" technique. If they are speaking directly to the mediator, parties will often make constructive comments even in the presence of the other party. Encourage these comments and the "Look-I'm-only-trying-to-be-reasonable" tone of voice that parties often reserve for the mediator. Then ask the party to repeat the comment directly to the other party.

   For example, you might ask one party to describe for you how they felt at the time when a certain event occurred (a direct statement of one's own personal feelings is a constructive approach in disputes since no one can argue with how someone else was feeling) or say why they'd like to resolve this situation or state something that was positive in the relationship.

   When the party is finished say, "Could I ask you now to look at Mr. Jones and repeat directly to him what you just said to me?"

7. Be comfortable with silence.

8. Institute a ground rule that each speaker must repeat what the previous speaker has said, to the satisfaction of the previous speaker, before gaining the right to respond.

- Ron Kraybill
Mennonite Conciliation Service

THE PROBLEM-SOLVING STAGE

1. Define problems

   Some ways to do this:
   - Mediators list the problem they hear. "It sounds to me as though we need to discuss at least the following areas . . . Do you agree? Are there any other areas we ought to add to this?"
   - Ask the parties to name various areas they want to discuss.
   - Ask parties to write up on 3X5 cards the things they'd like to work out understandings on.

2. Share feelings

   Some ways to do this:
   - Ask each party to "describe the impact of this whole situation on you personally."
   - Select a crucial event and ask each party to describe what they were thinking and feeling as this was happening.

   Some techniques that enhance the above:
   - Use "feelings sheet." Ask each party to pick three words that describe their feelings.
   - Coach paraphrasing. "Bill could you say in your own words what you understand Jim to be saying here? . . . Jim, is that accurate?"
   - Coach direct communication, "Bill, could I ask you to turn to Jim and tell him directly what you just told me."

3. Note commonalities (optional)

   Some ways to do this:
   - Define overall purposes for this relationship, E.G. "If you had a magic want and could make anything you wanted happen in this relationship, what would that be?"
   - Note common predicaments, commonalities, interests, goals. (Both are frustrated with the situation, both would like a solution, etc.)

4. Generate solutions

   Some ways to do this:
   - If one issue seems fairly easy, identify it and ask for trial suggestions to resolve it. Continue with other issues.
   - "Gravity method." Ask each party to write out on a 3X5 card a solution covering all issues, a solution they think would be acceptable to the other party. They read these aloud and the other responds. Modify if necessary until each side has written a solution acceptable to the other.

     Each side then takes a second card and modifies one part where they think the other side would be most likely to be flexible. Continue several rounds of this, placing cards in the middle of table. Mediators may want to participate too. Each party then selects 2-4 cards he or she thinks are close to being fair.
   - Meet separately with each party.

   Techniques to enhance any of the above
   - Emphasize any agreements that occur.
   - Be prepared to discuss feelings again.
   - Use "What if . . . ", especially in separate meetings.
   - Ask each party to describe the consequences of their demands.

5. Create the best solution

   Some ways to do this:
   - Work in joint sessions if things are going well.
   - Use separate sessions to try out ideas and break impasse, if necessary.
   - Ignore positions, deal with interest. "Could you explain thinking on that demand in greater detail, Mr. Jones."

THE AGREEMENT STAGE

1. Write a rough draft. Be sure it is:
   - balanced. Everyone must "win" something.
     Mr. Jones agrees that he. . . . Mr. Smith agrees that he. . . .
   - specific. Who will do (not do) what, when, and where?
   - realistic. Can they live up to it?
     Be sure it speaks only for the disputants. (Avoid:"Mr. Jones' kids will stop making noise.") OK - "Mr. Jones will discuss our agreement with his kids tomorrow evening and ask them to keep noise down after 8:00 p.m. Mr. Smith will phone Mr. Jones if noise gets too loud in the future."
   - clear and simple. No legalese.

2. Read to parties and get their response -
   - Does it cover all issues?
   - Do they pledge to live up to it?

3. Sign and date it.

4. Copies to both parties.

- Ron Kraybill
Mennonite Conciliation Service